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ABSTRACT

Relating specifically to the North Carolina migrant education program's administrative responsibilities, this guide is designed to aid administrators in program management, monitoring project activities, project evaluation, self-assessment, determining needs for training and staff development, site-visit preparation, policy development, and analyzing staff requirements. The guide covers: program priorities and objectives; State policies on project funding, monitoring, food services, unobligated funds, recruitment, the Migrant Student Record Transfer System (MSRTS), title and control of equipment, and hearing and appeal procedures; assessing the migrant child's needs; calendar of events; local migrant education projects; defining a migrant; procedures and codes of the MSRTS; Periodic Enrollment Validation Reports; Inter/intrastate Student Enrollment Monitoring System; State Migrant Advisory Committee (constitution and by-laws); identification and recruitment; program development; funds allocation; fiscal management; MSRTS utilization; interagency and interstate coordination; parent involvement; information dissemination; evaluation; budget revision; proration and documentation; audits; and fiscal reports. Appended are excerpts from the General Education Provisions Act, rules and regulations on financial assistance to local educational agencies, and regulations for ESEA Title I Migrant Education programs and projects. (NQ)

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# MIGRANT EDUCATION
# ADMINISTRATIVE GUIDE

Division of Compensatory Education
Migrant Education Section
State Department of Public Instruction
Raleigh, North Carolina

June, 1977

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U S DEPARTMENT OF HEALTH,
EDUCATION & WELFARE
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A. Craig Phillips
Superintendent of Public Instruction

Jerome H. Melton
Deputy State Superintendent of Public Instruction

George A. Kahdy
Assistant Superintendent for Instructional Services

Robert J. Marley
Acting Director, Division of Compensatory Education

Robert E. Youngblood
Director of Migrant Education Programs

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# FOREWORD

This Migrant Education Administrative Guide was developed to assist local migrant project directors in carrying out their responsibilities as they relate to the Title I Migrant Project. It is also designed to serve as a self-assessment guide for state and local program managers, assisting in the identification of functions and activities which are carried out in accordance with legislative requirements and program regulations. At the same time it serves to point out areas of deficiency in program management and allows the program manager to make modifications as indicated to reduce these deficiencies.

The assessment guide was developed to allow enough flexibility that it will be useful to all the LEAs, yet specific enough that it relates to the unique functions and activities which are basic components of each migrant project. It provides the LEA migrant project director with an opportunity to assess the progress toward achievement of specific management functions and serves as a guide to activities which are necessary to meet minimum performance standards.

Sections 121, 122, 142 and 151 of Title I of the Elementary and Secondary Education Act, Sections 422, 423, 426 and 438 of the General Education Provisions Act, Parts 116 and 116d of the regulations for Title I, and Part 100b of the General Provisions for Programs point out the legal responsibilities of program managers in the administration programs and projects designed to meet the special educational needs of migratory children of migratory agricultural workers and migratory fishermen. Specific references from the above statutes and regulations are cited as appropriate when they mandate activities relating to program or project management. These citations should provide the administrator with a source of information regarding legal responsibilities for the administration of programs and projects.

Robert E. Youngblood, Director
Migrant Education Program

June, 1977

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## BACKGROUND OF THE PROBLEM

Agriculture is an important factor in North Carolina's economy. Every year growers need the extra help that migratory workers bring to the state to harvest their crops. And the laborers arrive by the thousands. Because of our location, we are just one more stop on the road as the migratory laborers and their families work their way from Florida northward with the seasons.

Not all the workers come from Florida. Many are from Mississippi, Georgia, and South Carolina. Some workers move about within the state, never leaving its borders. Migrants in the eastern migrant stream are mostly blacks and Puerto Ricans with some whites and Indians. Most of the western and mid-continent migratory groups are Mexican-Americans.

They and their families suffer deprivations common to their ethnic or racial minority as well as impoverished mobility and isolation from the mainstream of American life.

In general, migrant children underperform all others in school, have the highest dropout rates, the lowest achievement levels, and the most failures. Migratory children begin working at an early age. They grow up with a sense of obligation to help out with the family income. Changing schools frequently and staying out of school to work contribute to their falling more and more behind.

Their exact educational status is almost impossible to determine. Available statistics deviate drastically from the norm, and usual evaluation techniques are hardly valid. Children are absent during testing periods, those giving the test do not speak the children's language, and the children do not understand the reason for the testing.

Many migratory workers speak Spanish and their children have difficulty in an all-English curriculum. They fall behind early and the gap widens as the years go by. Most drop out without ever entering high school.

Without education, they find very little opportunity to break out of the migratory labor patterns of their parents. As mechanization increases and demand for seasonal hand labor decreases, they need education and technical training more than ever.

Until 1966, the only real efforts to provide education and general social services to migrant families were made by concerned citizens, church groups, volunteers and non-profit organizations.

Local school district attitudes tend to be negative because of the financial strain caused by large influxes of migrant children. While most enrollments and withdrawals usually even out, migrant children tend to arrive and depart in batches. They affect average daily attendance or membership which determines school fund allocations.

Although the 1965 Elementary and Secondary Education Act made funds available to school districts with disadvantaged children, the mobility of migrant children in effect left them "out in the cold."

In 1966, Title I of the 1965 Elementary and Secondary Education Act was amended to provide funds to establish or improve special educational programs for migrant children. This is the only federal program designed specifically to provide special educational services for migrant children at the elementary and secondary levels. Congressional support has increased steadily. In 1967, $9.7 million was made available nationwide and 78,000 migrant children were served. In 1976, funding had increased to $97 million and 413,000 children were served. (The Migrant Student Record Transfer System reported enrollment of 680,000 children in 1976).

Federal legislation and subsequent funding has made possible the success of the North Carolina migrant education program. The number of children served in the state each year has steadily increased from around 500 in 1967 to over 11,000 in 1976.

Migrant children have long been excluded from the mainstream of educational programs. Enrolling late in the year, large groups of migrant students have often been enrolled in separate classes in separate facilities. Rarely do they get to participate in extracurricular activities.

In some places shortened school years with extended days have done little to meet their needs, offering just more of the same -- teaching techniques and materials totally unmeaningful to them. The longer hours are often interpreted as punishment. It is no wonder that they are disillusioned by school and drop out as soon as possible.

North Carolina's migrant program seeks to meet their special needs in other ways. During the regular term, the program is primarily tutorial. Migratory students who need extra help in the basic skills spend time during the school day with a qualified tutor.

During the summer sessions when there are no state-supported programs for migrant children, a more comprehensive program is offered. Basic skills are emphasized but offerings include cultural studies, physical education, food service, transportation, medical and dental services. Both regular term and summer programs are characterized by individual attention to students, relaxed learning atmosphere, and positive reinforcement.

The North Carolina migrant education program has recognized staff development as an important tool in the improvement of education for migrant children. Bilingual personnel and materials incorporating the travel, cultural, and work experience of the migrant and immediate rewards for positive behavior are emphasized. Staff development efforts include reading and mathematics workshops in addition to a more comprehensive workshop each summer for migrant education.

Too often, personnel hired "as necessary" during the year when large groups of migrant students arrive do not meet the highest professional standards (the best were all hired at the beginning of the school year). When migrant children are part of regular mainstream classes, many teachers are not aware of their migrant condition. Even if they are aware, they may overlook or ignore the special needs of these children, mainly because they do not understand their needs or know how to cope with them.

Teacher training in how to meet the needs of migrant students is not extensive. It is usually directed at only those dealing exclusively with migrants and oriented to remedial instruction.

Very few migrants ever finish high school, much less go to college and become teachers. Unless they have lived it, few teachers can really understand or empathize with the difficulties of the migratory lifestyle.

Recognizing that a child's ability and motivation to learn are dependent on whether human needs are met, the N. C. Migrant Education program seeks to involve as many people as possible, both in other agencies and on the community level as well.

It is a member of the State Advisory Committee on Services to Migrants. Every two months, representatives from various governmental and private agencies meet to discuss services they provide to migrant families and their children. They discuss their problems and work on possible solutions. This helps cut down on duplication of services and helps reveal areas where services are needed.

Continuous efforts are being made to coordinate migrant education activities with those in other states to keep communication channels open for exchange of information. One example of this is the Migrant Student Record Transfer System. The System is a computerized network by which migrant student records can be transmitted to schools throughout the country as the children move.

Hopefully, proper recording of course credit will eventually curb the high dropout rate of migrant students who become quickly discouraged when semester credits are denied due to arbitrary cut off dates for enrollment and withdrawal.

Awareness of the importance of parents in the educational process is evident. As in other school programs, migrant parents can play an important role. In 1976, the state migrant program was instrumental in forming a state parent advisory committee made up of representatives from local parent advisory groups.

Coordination with other special programs is also important. Migratory children are eligible to participate in basic Title I programs operated by local educational agencies. There is considerable effort to coordinate the effort of both Title I and migrant programs to prevent duplication of services while assuring that the needs of migrant children are met.

The future of educational opportunities for migratory children is dependent on continuing financial support on a nationwide basis, dedicated educators who understand the needs of the children, and a sincere effort to educate the American public to the plight and needs of fellow human beings.

Source:
Schumack, Sharon, editor, Migrant Education Inequality in Education
21:5-32; June 1976.

# INTRODUCTION

Similarities exist between the Regular Title I and the Migrant Program because of the very nature of the programs. These similarities include a focus on providing direct educational services, establishment and supervision of individual state programs, a requirement for the evaluation of each funded project, and the emphasis on project quality.

Migrant education administrators at the national, state and local levels are responsible for a broad range of management functions and responsibilities. These include:

- Determining the areas with high concentrations of migratory children within the state.
- Recruiting migrant children.
- Conducting an assessment of needs of migrant children.
- Developing national program goals.
- Developing state migrant program objectives and priorities based upon the needs assessment and the national goals for migrant education.
- Promoting rapport and coordination between the school and the migrant community.
- Promoting coordination between other local, state, and federal agencies to secure and insure services from all available sources for migratory children.
- Requiring and supervising LEA participation in the Migrant Student Record Transfer System to insure proper collection of information from the individual child and/or his parents or guardian.
- Ascertaining that the curriculum material, teaching methodologies, and diagnostic instruments used in the program are suitable for the migrant children being served.
- Providing coordinated program planning activities.
- Reviewing project applications to insure that they meet the legislative requirements contained in the act.
- Improving the competencies of the migrant project staff through appropriate preservice and inservice staff development activities.
- Compiling information and evaluation reports.
- Disseminating information on the program to federal, state and local officials and to the public at large.

## Purpose

The migrant education program is different from the regular Title I program because it provides educational services to a categorical group of children. Under the ESEA Title I Migrant Program, the State Educational Agency must apply annually for its entitlement. The migrant program is therefore identified as a state operated program under Public Law 93-380, as opposed to the regular Title I program which is a local educational agency program.

Another unique feature of the Title I Migrant Program is the legislative mandate that it be coordinated with similar programs and projects in other states. It becomes apparent then, that in order to maintain a viable approach to program management and to provide for continuity among the various states providing special educational services to migratory children, it is necessary to use a systematic management approach in the administration of the migrant programs and projects. Thus it is the purpose of this Migrant Education Administrative Guide to provide the basis for effective program administration.

The role of the Office of Education in the Title I Migrant Program is indicated by the activities carried out at the federal level. The state migrant office and local project administrators will find the administrative guide a valuable tool in:

- Program management
- Monitoring project activities
- Evaluation of project effectiveness
- Self-assessment
- Determining needs for training and staff development
- Preparation for site visits
- Policy development
- Analyzing staff requirements

It should be pointed out that use of the administrative guide is not mandatory. It is the strong belief of the state migrant office, however, that it will prove to be helpful in the identification of weaknesses and deficiencies which may exist in the administration of migrant projects and that its use will result in better educational opportunities for the migratory child.

## Organization

This administrative guide is organized so that migrant program administrators at any level, new or experienced, and in harmony with their own style of operation, may use it as a reference and checklist of required activities. It may also be used as an outline of good administrative practice. Program administrators may determine the kinds of activities which should be carried out in their program or project and the time frame within which they should take place. They may also determine how their responsibilities and time constraints relate to the overall administration of the migrant education program.

The administrative guide has been developed so that it relates specifically to the administrative responsibilities in the North Carolina migrant education program and local migrant education projects within the state. It is recognized that there may be different administrative functions at the local project level among those local educational agencies conducting migrant projects. The loose leaf organization of the guide allows the local units to insert additional tasks and activities as required in order to make the guide more relevant to the specific responsibilities of the local administrator.

The administration of migrant projects has been broken down into twelve program components. These components should serve as a basis for the development of policies and related administrative activities. Each of the components is defined in terms of administrative functions necessary to operate the migrant education project. The twelve program components which are identified in the guide are:

I Identification and Recruitment

II Program Development

III Fund Allocation

IV Fiscal Management

V Utilization of the Migrant Student Record Transfer System

VI Interagency Coordination

VII Parent Involvement

VIII Interstate Coordination

IX Information Dissemination

X Monitoring

XI Evaluation

XII Reporting

## PRIORITIES OF THE STATE MIGRANT PROGRAM

The priorities of the State Migrant Education Program are as follows:

1. Continuity of programs for migratory children
2. Summer projects for interstate and intrastate migrants
3. Regular school term projects for interstate and intrastate migrants
4. Improvement of competencies of migrant project staff through staff development

5. Migrant Student Record Transfer System

6. Enrollment of eligible formerly migratory children into the migrant education program

## OBJECTIVES OF THE STATE MIGRANT PROGRAM

Based upon the identified and apparent needs of the migrant children in North Carolina and the legal requirements of the program, the following objectives have been adopted:

1. To assist in the identification and enrollment of migratory children and youths in migrant education projects
2. To assist in the development of progams of instruction in the academic disciplines according to the assessed needs of the migratory children
3. To promote activities designed to advance the migratory child's social growth and group interaction skills
4. To provide for a program of supplementary supporting services in the areas of medical, dental, nutritional and social services for migratory children
5. To provide technical and consultant services in planning, operating and evaluating migrant education projects
6. To provide for the extension of total services to migrants through interagency cooperation and coordination
7. To provide supplementary programs of instruction to improve the occupational skills of migratory youths
8. To promote the active involvement of migrant parent advisory councils in the local migrant education projects
9. To cooperate in the interstate exchange of student records through the Migrant Student Record Transfer System
10. To provide opportunities for improving staff competencies in the use of innovative and effective teaching techniques through preservice and inservice education
11. To promote interstate cooperation and program continuity for migratory children
12. To provide opportunities for supporting personnel to improve their competencies through appropriate training

13. To evaluate the academic and social progress of migratory children in the local projects on the basis of objective and subjective data

14. To promote fiscal management procedures commensurate with legislative requirements and program guidelines

15. To provide for appropriate dissemination of program information

## STATEMENT OF STATE POLICIES

### Policy Statement on Project Funding

The local Migrant Education projects must be planned so that they will unite all available resources, including state, local and ESEA Title I funds to provide a unified approach in meeting the special needs of migrant children. Migrant children, for instance, are entitled to the basic State educational services, but many are also eligible for services under ESEA Title I. In addition, other State and local agencies may provide services to migrant children. It should be made clear that migrant funds are to be used to supplement and not to supplant any of these other services.

Factors considered in the funding of local migrant projects are:

1. The number of migrant children enrolled

2. The special needs of the migrant children

3. The kinds of activities planned to meet the needs of the migrant children

4. The length of the program

5. The availability of funds and assistance from other agencies in meeting the needs of the migrant children

6. The capability of the LEA to provide the services described in the project application

### Policy on Project Monitoring

The SEA will monitor the local migrant projects at least four times during the regular school term and two times during the summer. Two of the regular school term visits will be made in the fall and two in the spring. Other monitoring visits will be made as required in order to provide technical assistance to the local project. All monitoring visits will be reported on the Migrant Education Monitoring Report form. A copy of this report will be filed in the SEA and a copy will be sent to the LEA.

## Policy Statement on Food Services

All projects which provide school food services to migrant children during summer migrant projects are encouraged to use surplus food commodities from the U. S. Department of Agriculture to the greatest extent possible. Each project must also request cash reimbursements from the Division of School Food Services for meals served to migrant children. Reimbursements for food services must be returned to the State Migrant Program.

## Policy Statement on Unobligated Funds

Within thirty days from the ending date of the migrant project, any unobligated funds remaining in the project must be returned to the State Migrant Program by submitting a project budget revision, reducing the unobligated funds to zero.

## Policy Statement on Recruiting

The success of the recruitment process in North Carolina is largely dependent upon the contacts of the local project personnel with local health departments, local migrant councils, local growers, rural manpower representatives, crew leaders, and representatives of local private non-profit organizations providing services to migrants. The LEA is also responsible for conducting surveys within the schools and working with the SEA in locating migrant camps and following up on all leads provided by the SEA.

In the recruitment process the SEA is responsible for:

1. Assisting in the identification of concentrations of migrants
2. Providing the LEAs with a list of approved migrant farm labor camps
3. Assisting in school surveys
4. Making information from the State agencies which serve migrants available to the LEAs

## Policy Statement on Enrolling a Child in the Migrant Student Record Transfer System

1. The first time a child is enrolled in the LEA project enrollment information is transmitted on the Migrant Data Transmittal form (MDT). For second and subsequent enrollments in the LEA, use a copy of the Migrant Student Record Transfer form to transmit the enrollment information.
2. When there has been a move into the LEA for the first time or since any previous enrollment in the MSRTS:

(a) Enrollment date is determined by the date of the most recent move into the LEA.

(b) Enrollment date in the MSRTS may not be more than 12 months prior to the beginning of the project.

3. When there has been no change in residence into this LEA since the last enrollment in MSRTS, the enrollment date is determined by the beginning date of the project.

Policy Statement on Title and Control of Equipment

The state educational agency shall maintain title to and control over property acquired under the migrant education program. The state educational agency shall maintain the right to use the property acquired under the migrant education program and to move or otherwise dispose of it in a manner best designed to carry out the purpose of the program.

Property management standards for non-expendable personal property shall also include the following procedural requirement:

(1) An inventory record shall be maintained on all property acquired under the migrant education project.

(2) Property records shall provide:

- A description of the property
- Manufacturers' serial number or other identification number
- Acquisition date and cost
- Source of property
- Percentage of federal funds used in the purchase of the property
- Location and use
- Condition of the property

If the LEA has no further use for the property for the purpose for which it was purchased, disposition of the property shall be made by the State Migrant Education Office.

Policy Statement on Hearing and Appeal Procedures

The rights of the local educational agency to appeal a decision of the State Educational Agency and to request a hearing on a grievance shall be assured through the policies and procedures approved by the State Board of Education and the U. S. Office of Education.

If the SEA disapproves or fails to approve an application in whole or in part, an LEA may request a hearing with the State Director of Migrant Education Programs to review the actions taken.

The State Director of Migrant Education will issue a ruling within ten days from the date of any hearing along with the reason(s) for such ruling.

The LEA may appeal the ruling of the State Director of Migrant Education Programs within twenty days to the Deputy Assistant State Superintendent for Compensatory Education. If the grievance is not resolved, further appeals to the State Board of Education and the U. S. Commissioner of Education shall conform to the policies and procedures adopted by the State Board of Education.

## PLANNING A MIGRANT PROJECT

The logical steps in planning and implementing a migrant project are as follows:

### Identifying Migrant Children

The estimate of the number of children to be served in the program should be based upon the best information available. Enrollment in previous programs is one indicator which should be used. This information is available in the office of the LEA. In addition, the project director should contact the Farm Placement Representative at the Employment Security Commission, members of the Parent Advisory Council and any other individuals and agencies which will be in a position to assist in arriving at a reasonable estimate of the number of migrants in the area (See booklet "Serving Migrant Families").

### Recruiting Migrant Children

The first step in recruiting children is to secure the interest and cooperation of the growers in the area. These people can be quite effective in establishing rapport between the migrant and the school. For assistance in recruiting for the summer school program they should be contacted during the late winter or early spring. This would make it possible for them to inform the crew leaders that summer schools will be in operation in their areas. Crew leaders who prefer stable family groups to unattached migrants can use this summer school program to induce parents to bring their children with them rather than leave them with relatives. Thus, the growers may be the key people in helping to keep migrant families intact. Several local service agencies may cooperate with the director by furnishing information, locating migrant camps and family units in the area, and estimating the number of migrants expected and the approximate dates of their arrival. (See booklet "Serving Migrant Families").

### Assessing Needs of Migrant Children

After the number of children in the project is established, the special needs of the children must be determined. Some of their general needs are as follows:

*Academic* - Because of a high degree of mobility, school attendance has been limited for most migrant children. Since their level of achievement is usually correlated with school attendance, many of these children have missed enough school by age 12 or 13 to place them 2 or 3 years behind other children of the same age. As a group, they constitute the greatest single source of illiteracy in America today.

*Health* - Some migrant children seldom see a doctor. Pinworms and diarrhea are frequent among migrant children along with other common untreated ailments, including impetigo and other infectious skin diseases, acute tonsillitis, iron deficiency anemia, parasites and insect bites. Some of the factors contributing to these health problems are overcrowded living conditions and inadequate sanitary facilities.

### Developing Project Objectives

Keeping in mind the needs of the children as they are identified by the local needs assessment, the local migrant project should establish specific objectives which can be evaluated in terms of the impact of the program on the performance of the students. These objectives should be stated as precisely as possible so that evidence of change may be systematically measured or observed and recorded. They should also be in harmony with the State program objectives and the mission of the national migrant program.

In addition to the sample project objectives relating to project management each local project should develop specific performance objectives for the children enrolled in the program in each area of participation. Some examples of objectives which would be appropriate for local migrant projects are listed below. These samples are only a few of the types of objectives which might be used to measure the effectiveness of program management and academic progress of the students enrolled in the project.

1. Within five days after entering the project the academic needs of each migrant child will be assessed as indicated by the analysis of test scores or other acceptable diagnostic procedures.

2. By the end of the program each professional and paraprofessional instructional staff member will have participated in _________ hours of locally planned staff development activities as indicated by attendance records of the staff development sessions.

3. By the end of the program, information relating to the project will have been disseminated to the community as indicated by published news releases, coverage by radio and television stations and/or newsletters distributed to supporting agencies, program volunteers and professional personnel in the LEA.

4. During the operation of the project all certification of eligibility forms will be maintained up-to-date as indicated by periodic monitoring checks by the project director and the State Migrant Consultant.

5. During the operation of the program all MSRTS transactions will be maintained up-to-date as indicated by periodic monitoring checks by the project director and State Migrant Consultants.

6. Fiscal reports will be maintained up-to-date during the operation of the project as indicated by periodic checks by the project director, State Migrant Consultant and State ESEA fiscal affairs reports.

7. Within 15 calendar days after the end of the instructional activities, the project evaluation will have been completed and transmitted to the State Migrant Office as indicated by the date the document is delivered to the State Migrant Director or postmarked by the U. S. Postal Service.

8. By the end of the program the Migrant Parent Advisory Committee will have had opportunities to provide input into the planning and operation of the program as indicated by the minutes of the PAC meeting.

9. During the program migrant parents and other adults in the community will be involved in the education of the migrant children as indicated by a record of visits to the school, parent-teacher conferences and volunteer work in the program.

10. By the end of the program each child with identified remedial health defects will have received appropriate treatment as indicated by a record of health referrals and entries on the Uniform Migrant Student Medical Transfer form.

11. During the operation of the program there will be a continuing effort to recruit migrant children throughout the school unit as indicated by surveys and records of contacts with growers, Rural Manpower Service and other agencies serving migrant families.

12. At least 70% of the migratory children enrolled in the program for one school year will show seven months of progress in the basic skills as measured by the California Test of Basic Skills.

13. By the end of the course, each migratory child will demonstrate his understanding of traffic safety rules by identifying ten (10) highway signs by shape, color and design.

14. By the end of the program, eighty percent of the migratory children will show at least six months progress in reading as measured by the Botel Reading Test.

15. By the end of the program each migratory child enrolled in the program will show a positive change in self-concept as indicated by teacher opinion and other subjective measures.

16. After one week in the program, each migrant child will demonstrate a practice of good health habits by taking showers, changing clothes and brushing teeth daily.

17. After six weeks in the program, each pre-school migrant child will show growth in social and emotional maturity as indicated by teacher judgement.

18. By June 1, each migrant child will demonstrate improvement in manual dexterity through the construction of at least two three-dimensional objects.

19. By August 1, each teenage migrant girl will begin to develop or will improve basic sewing skills by constructing a simple garmet.

20. Prior to the end of the program, each migrant child will receive a health screening as indicated by a record of health screenings maintained by the school nurse.

21. By the end of the program each migrant child will have eliminated two identified deficiencies in mathematics as indicated by scores on teacher-made tests.

## Planning Project Activities

The specific plan to achieve the stated objectives of the project should (a) include a detailed description of each major activity, and (b) focus on the precise resources, methods, and procedures to be employed in carrying out the activity, including staff inservice training requirements, facilities, equipment and materials.

Some recommendations which may serve as guides in planning and implementing successful migrant projects are listed below. In addition to the suggestions listed, it is strongly recommended that program planning committees consider recommendations made in previous program evaluation reports.

. Each program of substantial size should have a migrant project director who keeps in close contact with the daily operation of the program.

. Instructional programs should be tailored to the learning styles of migrant children by placing emphasis on physical involvement and building feelings of security and self-esteem.

. Learning activities should emphasize positive aspects of the migrant's subculture.

. Adequate health services should be available to each migrant child.

. Instruction in personal hygiene should be realistic in terms of the children's living conditions.

. Food services should be provided to each migrant child enrolled.

. All evening programs for migrant youth should begin with a nutritious hot meal.

. Each project should include one meal function to which the parents are invited.

. Children should assist in the selection of clothing provided for them through the project.

. Each child should be provided with a personal health kit and opportunities for its use under teacher supervision.

. Each classroom should have reading materials for a wide range of abilities.

. Preschool and primary school children should have an adequate supply of materials and equipment such as puppets, puzzles, blocks, tools and other items for instruction and creative play.

. The programs should be planned to operate for the entire period of time that the migrants are in the community. Many programs will operate for six weeks, some may last only three or four weeks and some may be extended to eight or nine weeks.

. The elementary school program should extend for a full day, or at least six hours, exclusive of the lunch hour.

. The instructional and supporting staff should have the opportunity to rate the effectiveness of the administration.

. Maximum use should be made of aides.

. An orientation period for the staff should be provided.

. Local staff development activities should be included in each project.

. Forms and reports to the State office should be tendered promptly and accurately.

. Special attention should be given to the procedures of the Migrant Student Record Transfer System.

# MIGRANT EDUCATION CALENDAR OF EVENTS

1. Math Workshop - February, 1978
2. East Coast Regional Migrant Education Workshop - Massachusetts - March, 1978
3. State Parent Advisory Committee Meeting - April, 1978
4. Plan summer migrant education programs - April-May, 1978
5. Migrant Education Summer Workshop - Hilton Inn, Wilmington - June 20-23, 1977
6. Plan regular school year programs - June-August, 1977
7. State Parent Advisory Committee Meeting - October, 1977
8. Migrant Education Reading Workshop - November, 1977

## LOCAL MIGRANT EDUCATION PROJECTS

## 1976-77

| LEA | Contact Person | Telephone |
|---|---|---|
| Consultant - Dan Pratt | | 733-3972 |
| Bladen County | A. R. Davis | 862-4136 |
| Columbus County | B. K. Goins | 642-5168 |
| Duplin County | Ann P. Jackson | 296-4211 |
| Greene County | Joe E. Brown | 747-3425 |
| Harnett County | Harriett McCarroll | 893-8151 |
| Hoke County | John McAllister | 875-4106 |
| Johnston County | Q. K. Wall | 934-8143 |
| Lenoir County | Frank Wiley | 527-8054 |
| Maxton City | C. C. Horne | 844-3650 |
| Montgomery County | Edd McBride | 576-6511 |
| Red Springs City | Jack Morgan | 843-5115 |
| Richmond County | Dillette Sibley | 895-4061 |
| Robeson County | Albert Hunt | 739-9717 |
| Sampson County | Robert Owen | 592-2191 |
| Scotland County | W. L. Baker | 276-3626 |
| St. Paul City | Donald Kennedy | 865-4104 |
| | | |
| Consultant - Arch Manning | | 792-5166 |
| Bertie County | Bill Newkirk | 794-3173 |
| Camden County | Geneva Forehand | 338-0161 |
| Chowan County | Loretta B. Guard | 482-4436 |
| Edgecombe County | Drew McPhail | 823-6151 |
| Gates County | R. V. Parker | 357-2521 |
| Halifax County | Clemon Williamson | 583-5111 |
| Hertford County | I. A. Battle | 358-1641 |
| Martin County | Raymond Robertson | 792-1575 |
| Northampton County | Goldie Eley | 534-2181 |
| Pasquotank County | Milton Sawyer | 335-2981 |
| Perquimans County | W. R. Capps | 426-5741 |
| Pitt County | J. L. Keeter | 752-6106 |
| Tyrrell County | Wm. White, Jr. | 796-3561 |
| Washington County | Ike Williams | 793-3508 |
| Wilson County | Onnie Cockrell | 237-7116 |

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## LOCAL MIGRANT EDUCATION PROJECTS (continued)

## 1976-77

| LEA | Contact Person | Telephone |
|---|---|---|
| Consultant - Y. A. Taylor | | 733-3972 |
| Alamance County | Anna Bass | 226-8465 |
| Haywood County | Sam Smith | 704/456-8613 |
| Henderson County | Bill Barnwell | 704/692-8251 |
| Moore County | Kirby Watson | 947-2967 |
| Nash County | B. K. Corbett | 459-7194 |
| Yadkin County | Hoyt Reece | 468-4949 |

# DEFINITIONS

Section 116d.2 of the regulations for migrant education programs states: "Currently migratory child means a child (1) whose parent or guardian is a migratory agricultural worker or migratory fisherman; and (2) who has within the past twelve months moved from one school district into another (or, in a state comprising a single school district has moved from one school administrative area into another) in order to enable the child, the child's guardian, or a member of the child's immediate family to obtain temporary or seasonal employment in an agricultural or fishing activity." (20 U.S.C. 241c-2)

"Formerly migratory child means a child defined by section 122(a)(3) which provides that "with the concurrence of his parents, a migratory child. . . shall be deemed to continue to be such a child for a period, not in excess of five years, during which he resides in an area served by the agency carrying on a program or project under this part."

## Interstate Migrant

A child who has moved with a parent or guardian within the past twelve months across state boundaries in order that a parent, guardian or member of his immediate family might secure temporary or seasonal employment in agriculture or fishing activities.

## Intrastate Migrant

A child who has moved with a parent or guardian within the past twelve months across school district boundaries within a state in order that a parent, guardian or member of his immediate family might secure temporary or seasonal employment in agriculture or fishing activities.

"Agricultural Activity" means any activity related to crop production, including but not limited to soil preparation and storage, curing, canning, or freezing of cultivated crops. Activities on farms or ranches related to the production and processing of milk, poultry, livestock (for human consumption) and fish are also considered to be agricultural activities. Under the foregoing definition, cutting, transporting, and sawing of timber are not considered to be agricultural activities. Operations involved in forest nurseries and fish farms, however, are considered to be agricultural activities.
(20 U.S.C. 241c-2)

"Migratory agricultural workers" means those persons who have moved from one school district in a state to another in the same state or to one in another state for the purpose of finding temporary or seasonal employment in one or more agricultural activities as defined above.

"Fishing activities" means any activity directly related to the raising and catching of fish and shellfish from streams, lakes, or oceans, and to the processing of such fish for initial distribution through commercial market channels or as a primary means of personal subsistence.
(20 U.S.C. 241c-2)

"Migratory fishermen" means those workers who have moved out of a school district to another in the same state or to one in another state for the purpose of finding temporary or seasonal employment in one or more fishing activities as defined above.
(20 U.S.C. 241c-2; Sen. Rept. No. 93-1026,p. 143 (1974))

## MIGRANT STUDENT RECORD TRANSFER SYSTEM

Public Law 89-750 which authorizes funds for establishing or improving programs for migratory children includes the requirement that the records of these children be transmitted from school to school. Each school in North Carolina enrolling migrant children under a migrant education project funded by this law must cooperate in this information exchange.

The Migrant Student Record Transfer System (MSRTS) is a computerized data system capable of providing data on any migrant child to any of the cooperating states in the system. It was designed to permit schools to share migrant student information -- thereby freeing the schools to serve children's needs rather than merely identifying them.

The major purpose of the system is to make educational and related information on any child available to any school in the shortest time possible. By using this computerized system, any school in North Carolina may contact the teletype terminal operators at the Northeast Regional Education Center and request information on a migrant child.

The need for such a method of transferring migrant student information has long been recognized. Efforts directed toward the transfer of student records were made in the late 1960's. At that time the student records were processed manually and transferred from one state to another by mail. These early efforts did not meet the informational needs of the schools, but they did lay the groundwork for the present system. With the development of a uniform recording instrument for each student and the assistance of computer technology, a school can now be provided with essential information on a migrant child within a brief period of time, thereby enabling the school to provide the help that the students need. The State Directors of Migrant Education started solving the problem in 1968 by developing and implementing a system to serve all states. The next year, the Arkansas State Department of Education, by competitive bid, was awarded the contract for implementing the National Migrant Student Record Transfer System. The System became operative and North Carolina was tied into it in April of 1971.

Like the other participating states, North Carolina students covered by the MSRTS have been certified as being the children of migratory workers who follow the crops in search of agricultural work, or as being the children of migratory fishermen. Migrating workers can be either guardians or parents of these children. To be eligible to participate in a migrant education program, a child must be an Interstate, an Intrastate, or a Formerly Migratory or Five-Year migrant. For purposes of clarification, these are defined in the Regulations and are restated in the Definitions section above.

## How the System Works

The four major elements in the MSRTS are people, schools, terminals, and the depository. By way of explanation, when a student arrives at a school and school officials decide that the child could be a migrant, the school collects basic identifying data on the child. This data, together with enrollment data, is relayed by phone or mail to the Northeast Regional Education Center where the terminal operator prepares a paper tape message containing this student information. The paper tape message is then transmitted to the depository in Little Rock by teletype. The computer determines whether the student is already on the data base. If the child is on the data base, the computer places the new enrollment data on his record. The computer then extracts from the student's record his critical data and transmits it back to the terminal operator by teletype. The terminal operator in turn relays this data to the school by telephone or mail upon request.

If the student was not on the data base, then the computer will use the child's basic identifying and enrollment data to create a new student record. Then, as the student moves from school to school, this record will remain on the data base until the child is terminated as a migrant student. Whether the student was already on the data base or not, a transfer record is printed in triplicate and airmailed directly to the local project within 24 hours. This printed record will let the local school personnel know if the data was entered correctly.

When the computer generated student transfer record arrives at the school, one copy normally goes to the student's teacher or the tutorial aide and the remaining copies to the record clerk. The medical transfer form is maintained by the medical addressee. The record clerk will maintain the student transfer record by submitting update information to the terminal operator. As test scores, health data, program data, or other information is generated this updated information is transmitted to the terminal operator who sends it to the depository. The computer enters this new data in the student's record and an updated record is then airmailed to the school upon request. In this way, the schools will always have a computer generated copy of the latest information for each student.

## Data Supplied by the MSRTS

There are several kinds of data supplied to the schools by the System. The three basic types of information are critical data, the Uniform Migrant Student Transfer Form, and the Uniform Migrant Student Medical Transfer form.

Critical data is simply that information on the student's record which the State Directors defined as critical to the initial placement and care of the migrant student. It includes student identification information, school identification, previous school attended, special programs, chronic health conditions, and abnormalities.

The Uniform Migrant Student Transfer Form is the System's cumulative record and is mailed to each student's present school of enrollment. This record, in addition to the student's basic "key data," contains School History Data, School Health Data, Parent Data, Special Programs and Special Interests information and Test Data.

The Uniform Migrant Student Medical Transfer form was designed to be used by medical professions in reporting medical information. This record contains a detailed medical problem list designed and sanctioned by the American Academy of Pediatrics. It is a unique provision of the System, enabling medical professionals to communicate the medical problems and precise treatment of migrant children from one community to another rapidly.

## System Safeguards

The migrant student transfer records on file in the local school or school administrative unit are confidential. Only the child, the child's parents, or authorized officials can examine them. The migrant child and his parents or guardians are allowed to review the data on the transfer record at any time and the parents have the right to challenge the contents of the record. When the child withdraws from school he may receive a copy of the record. Access to the student data stored in the Migrant Data Center is restricted to State Directors of Migrant Education. Upon request the Data Center will provide state educational agencies with data on individual migrant students. It will also provide summary data that may be appropriate in connection with educational programs for the migrant children. In accordance with state laws, educational agencies are responsible for safeguarding the information received from the Data Center and protecting the privacy of the child whose records are stored in the Data Center.

Upon request by the State Educational Agency, data on individual migrant children and appropriate summary data relating to the educational programs of these children may be made available to local educational agencies.

Statistical summary data to be used for program purposes is available to the U. S. Office of Education upon request.

## MSRTS PROCEDURES

Certain procedures have been established by the Migrant Student Record Transfer System and the State Migrant Section which need to be followed by each local educational agency if the System is to operate with the greatest efficiency. Those persons responsible for providing, accumulating, or transmitting migrant student data should be thoroughly familiar with all procedures used by the System in handling student data.

### Responsibilities of the MSRTS Clerk

The most important functions of the record clerk as they relate to the MSRTS in the local educational agency are enrolling the migrant child in the System, updating the student's record, and withdrawing the student from the System. In all transactions involving the MSRTS, the record clerk will maintain constant communication with the teletype terminal operator in the Northeast Regional Center. Also, the clerk is usually responsible for helping in the identification of all eligible migrant children enrolling in the System. The specific responsibilities of the school clerk may be listed as follows:

1. To collect information about children from all available sources.
2. To code information onto MDT and/or records for transmittal to terminal operator.
3. To keep adequate and accurate files on records.
4. To see that records are disseminated at the local school for use by involved personnel.
5. To review all incoming computer generated records for accuracy and completeness.
6. To aid school personnel in interpreting data on records, if necessary.
7. To help insure the confidentiality and privacy of student data.
8. To help maintain the system safeguards at the local level.

### Enrolling a Migrant Child in the MSRTS

A migrant student can be enrolled in one of two ways. First, the record clerk should check all LEA files to determine if the child already has a transfer record form. If so, the following new enrollment information should be printed in red ink in the blank section below the test data space of the transfer record form.

| | School ID Code | Enrollment Date | Grade Level | Migrant Status |
|---|---|---|---|---|
| Example | BRDC | 090176 | Grade 3 | Status 1 |

After entering this information on the transfer record form it should be mailed to the terminal operator. Whenever possible, the first copy of the transfer record form should be mailed to the terminal operator. The record clerk should make sure that the most recent record in the files is used to transmit this updating information. (In fact, only the most recent record should be in the files).

When enrolling a student on the transfer record form, the current residence of the student should be checked for accuracy. If it is not correct, it should be updated. In making these enrollment transactions using the transfer record form, all information should be printed with a RED pencil or ball point pen.

If the student is new to the migrant education program and has no prior Uniform Migrant Student Transfer form, he must be enrolled on the Migrant Data Transmittal (MDT) form. Explicit instructions for completing this form are printed on the reverse side of the form. Two copies of the MDT should be completed on each child at the time of enrollment. The record clerk should mail the first copy to the terminal operator at the Northeast Regional Education Center and retain the second copy in the LEA files until a transfer record form for that student is received from the Data Bank in Little Rock, Arkansas. At that time, the MDT should be removed from the file and destroyed. The transfer record replaces the MDT.

## Updating a Student's Record

During the course of a migrant program, certain student data may be generated -- health screenings, test results, innoculations, etc. When this student data is generated, it should be printed on the first copy of the transfer record with a red ball point pen or pencil then mailed to the terminal operator so that the student's record can be kept up-to-date at the Data Bank. When this new student data is received at the Data Bank, a new and updated record will be mailed to the LEA upon request. When the updated record is received in the LEA, the old transfer record should be taken out of the file and destroyed.

All student records should be updated as the need arises; record clerks should not wait until the end of the school term to do this. When updating the Health Services matrix, the Test Data section, etc., this information is to be submitted on the transfer record form. There is no need to update the Health Services on both the Student Transfer form and the Student Medical form. When one is updated, the information is automatically printed on the other form.

In all updating, the record clerk should never write over any printed information on the transfer form. In making corrections on the record form, a line should be drawn through erroneous information and the corrected information should be printed directly above or below the matrix or in the blank space in the lower right hand portion of the transfer record. To request a new record from the Data Bank, "TR" for transfer record, and/or "MR" for medical record should be placed in the blank space in the lower right hand portion of the record form when the update information is transmitted to the terminal operator.

The only instance when the Medical Transfer form is updated is when information is to be entered in the Health Problems matrix. This kind of information can be submitted only on the Medical Transfer form.

### Withdrawing a Student from the MSRTS

Any time that a child withdraws from the migrant project in a school, or at the end of the school term in which the migrant project is being operated, the child must be withdrawn from the MSRTS. When only two or three students are being withdrawn from the school at any time, the withdrawal information, along with any update information, may be given to the terminal operator by telephone. However, if several students are to be withdrawn at the same time, the recommended procedure is to send the terminal operator a copy of each student's most up-to-date transfer record with the withdrawal information printed in red.

All students should be withdrawn upon leaving the school. For example, if a student leaves a school on 11-10-76, his withdrawal information should be submitted to the terminal operator as soon as the date of the withdrawal has been determined. Do not wait until the end of the school term to transmit this withdrawal information. Other update information should be submitted along with withdrawal information.

### Deceased and Graduating Students

All deceased and graduating students should be withdrawn immediately. A deceased student is to be withdrawn noting the date as well as the cause of his death. Graduating students should be withdrawn at the time of graduation and their records marked "graduated."

### Change in School Information

In the event a new school is added in an LEA, the terminal operator should be sent the following information so that the school can be placed on the Data Bank and a "4 Alpha Code" assigned for that school:

1. The State numeric code 43 (State Code) (LEA #) (School #)
2. Name of the new school
3. Physical address of the school
4. City, State and Zip Code
5. Medical addressee
6. Complete mailing address for transfer records.

In the event that a school name is changed, the former name of the school, the numeric code, the school I. D. code, and the new school name should be submitted to the terminal operator as soon as this information is determined.

Similar information should also be submitted if an LEA should merge two or more schools into one new school.

If the LEA desires to change the mailing address for student transfer records, the school ID code and new mailing address should be sent to the terminal operator.

## Adding New Test Codes

In adding new test codes, the terminal operator should be sent information including the complete name of the test, the author, the publisher, how the test is scored, and any other pertinent information regarding the test.

## Filing

It is also suggested that the LEA record clerk set-up both a transfer record file and a student card file on each student, and that an active file and inactive file be maintained. These files are confidental and should be handled as described in "System Safeguards."

All instructions, regulations, etc. should be maintained by the record clerk in a loose-leaf notebook. The terminal operator should be kept informed as to the clerks' routine work schedules and the telephone numbers where they can be reached at all times. Any time the LEA record clerk needs help, assistance is available from the terminal operator at the Northeast Regional Education Center. The terminal operator may be contacted by calling 919/ 792-5166.

## Other MSRTS Procedures

Upon receipt of any transfer record from the Data Bank, it should be checked thoroughly for accuracy and completeness. If any information is erroneous, or if the record is incomplete, the terminal operator should be contacted by telephone or the transfer record updated and mailed back to her. After comparing the new record with the file copy, the old copy should be destroyed and one copy of the new transfer record filed in its place. The other copies should be routed as per LEA procedures.

In submitting enrollments, withdrawals, or updates, the student information completed should be mailed to the terminal operator in "groups by school" in alphabetical order. MSRTS transmittals should be mailed to the Migrant Education Section, P. O. Box 1028, Williamston, N. C. 27892. Transactions should also be grouped -- all enrollments together, all withdrawals together, etc. As directed above, the record clerk should submit all such information to the terminal operator periodically and as the need arises. One should never wait until the end of the school term to update a student record when the updating information was available before the end of the school term.

All enrollments at the beginning of the regular school term should be submitted to the terminal operator as quickly as possible, since enrollments recorded prior to December 15 are used to compute the funds to be allocated to North Carolina for its migrant education program.

If a transfer and/or medical record is not received from Little Rock within 10 days from the date of transmission of any kind of student information, contact the terminal operator immediately.

## Conclusion

The Migrant Student Record Transfer System offers a broad range of multiple uses for administrators and educators in migrant education projects. By using the system, the continuity of the child's education can be maintained, the special interests and needs of the child can be identified, and special health conditions can be acknowledged. As a result, the student can be placed in a suitable curriculum sequence, and the services of other school and community resources can be coordinated. This data enables teachers and other instructional personnel to provide more meaningful learning experiences for the migrant child. It also allows medical personnel to serve the students' specific health needs.

An important consideration is that eligible migrant children can be identified and recruited, and because they are enrolled in the system they are counted in the enrollment base which is used to determine the allocation of funds available to North Carolina for carrying out the migrant education program.

In summary, one of the basic functions of the system is to acquaint program personnel with the academic background, the health needs, the special needs of the migrant child. With access to this information, migrant educators in North Carolina are better able to plan for all the students' needs rather than waiting until a more time consuming needs assessment is performed. Therefore the rapid transmission of the student's profile is of critical importance for both students and educators.

## MSRTS CODES

## SPECIAL INTERESTS TABLE

| CODE | PROGRAM | CODE | PROGRAM |
|---|---|---|---|
| 57 | ALGEBRA | 11 | MATHEMATICS |
| 72 | ANI HUSBANDRY | 91 | MED PROFESSION |
| 18 | ART | 48 | METAL SHOP |
| 52 | ART HISTORY | 56 | MEXICAN HIS |
| 21 | AUTO MECHANICS | 62 | MODEL BUILDING |
| 25 | AUTOMOTIVE ORIE | 39 | MODELING CLAY |
| 90 | AVIATION | 88 | MOTORCYLES |
| 96 | BASEBALL | 85 | MOUNTAIN CLIMB |
| 24 | BICYCLING | 05 | MUSIC |
| 45 | BOOKKEEPING | 09 | NATURAL SCIENCE |
| 40 | CALLIGRAPHY | 69 | OFFICE WORK |
| 03 | CARVING | 78 | OUTDOOR EDUC |
| 23 | CERAMICS | 02 | PAINTING |
| 82 | CHILD CARE | 49 | PENMANSHIP |
| 36 | CHORUS | 19 | PHOTOGRAPHY |
| 83 | COIN COLLECTING | 15 | PHY EDUCATION |
| 84 | COMPUTER | 81 | PIC COLLECTING |
| 67 | COOKING | 35 | PLAY PRODUCTION |
| 34 | CRAFTS | 77 | POETRY |
| 31 | CREA NEEDLEWORK | 94 | PUZZLES |
| 04 | CREATIVE WRITING | 79 | READINESS SKLS |
| 42 | CROCHETING | 12 | READING |
| 51 | DANCING | 64 | RELIGION |
| 98 | DICTIONARY WORK | 71 | ROCK COLLECTING |
| 06 | DRAMA | 30 | ROCKET BUILDING |
| 01 | DRAWING | 99 | ROLLER SKATING |
| 41 | EMBROIDERY | 95 | SEDENTARY GAMES |
| 59 | ENGLISH 1 | 50 | SEWING |
| 68 | FARMING | 29 | SHORTHAND |
| 74 | FISHING | 61 | SMALL MOTORS |
| 27 | GENERAL SCIENCE | 60 | SOCCER |
| 38 | GENERAL SHOP | 10 | SOCIAL SCIENCE |
| 26 | GUITAR | 65 | SOCIAL SERVICE |
| 28 | HEALTH | 86 | SPACE EXPLOR |
| 58 | HISTORY | 20 | SPELLING |
| 08 | HOME ECONOMICS | 14 | SPORTS (INDIV) |
| 47 | HORSE RIDING | 13 | SPORTS (TEAM) |
| 46 | HORTICULTURE | 70 | STORY TELLING |
| 07 | INDUSTRIAL ARTS | 93 | SWIMMING |
| 76 | JOURNALISM | 87 | TEACHING |
| 92 | KNITTING | 66 | TRAVEL |
| 63 | LANGUAGE | 55 | TYPING |
| 89 | LAW ENFORCEMENT | 22 | VOC AGRICULTURE |
| 44 | LIBRARY WORK | 97 | VOLLEYBALL |
| 43 | MACRAME | 37 | WOOD SHOP |

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## MSRTS CODES

## SPECIAL PROGRAMS TABLE

| CODE | PROGRAM |
|---|---|
| 96 | ABC READING |
| 01 | AG CAREER ED |
| 94 | ALAMEDA MOTOR DEV |
| 02 | ART |
| 04 | AUD-VIS PERCEPTION |
| 14 | BAND |
| 49 | BAS FIRST AID COURSE |
| 39 | BEHAVIOR DISABILITY |
| 91 | BILINGUAL INSTR |
| 93 | BILINGUAL PROGRAM |
| 03 | BUS CARREER ED |
| 54 | BUSINESS COMM |
| 29 | CAREER DEVELOPMENT |
| 98 | CHAR EDUC DEV |
| 19 | COMM SKILLS DEV |
| 78 | COMMUNITY SKILLS |
| 21 | COMPREHENSIVE EDUC |
| 23 | COMPREHENSIVE RDG |
| 13 | COSMETOLOGY |
| 20 | CULTURAL ENRICHMENT |
| 90 | CVAE |
| 80 | DISTAR LANGUAGE DEV |
| 81 | DISTAR MATH |
| 82 | DISTAR READING |
| 08 | DRIVER TRAINING |
| 56 | EARLY CHILDHOOD ED |
| 22 | EMI CONTINUOUS CURR |
| 30 | ENG AS A SECOND LANG |
| 53 | ENGLISH |
| 09 | ENGLISH ROLL |
| 77 | ESA BASIC MATH |
| 28 | FOLK DANCING |
| 83 | FOUNTAIN VALLEY DIAG |
| 51 | GENERAL SHOP |
| 44 | GIFTED CLASS |
| 92 | GROSS MOTOR DEV |
| 26 | GUITAR |
| 06 | HEALTH CAREER ED |
| 95 | HEALTH NUTRITION |
| 05 | HEALTH RECREATION |
| 07 | HOME EC CAREER ED |
| 12 | HOMEBOUND INSTR |
| 97 | IMS |
| 59 | INFANT CARE |
| 84 | IPI MATH |
| 36 | LANG LEARNING DIS |
| 35 | LANGUAGE DEVELOPMENT |
| 34 | LANGUAGE ENRICHMENT |
| 37 | LEARN AND EARN |
| 89 | LEARNING CENTER RDG |
| 50 | LANGUISTICS SPANISH |
| 41 | MEDICAL OCCUPATION |
| 24 | MUSIC |
| 52 | NATURAL SCIENCE |
| 33 | NURSING |
| 43 | OFFICE MACH REPAIR |
| 75 | ORAL LANG |
| 99 | OTHER |
| 61 | OUTDOOR EDUCATION |
| 55 | PRE VOC TYPING |
| 11 | PRE-SCH W INST SERV |
| 10 | PRE-SCH WO INST SERV |
| 60 | REHABILITATION SERV |
| 45 | REMEDIAL MATHEMATICS |
| 25 | REMEDIAL READING |
| 46 | REMEDIAL SOCIAL SCI |
| 47 | REMEDIAL SPELLING |
| 57 | RESOURCE ROOM |
| 42 | RESTAURANT OCCUP |
| 74 | RIGHT TO READ |
| 27 | ROCK |
| 32 | SARI PROGRAM |
| 62 | SEDL BILINGUAL |
| 86 | SEDL MATH |
| 87 | SEDL ORAL LANG |
| 85 | SEDL READING |
| 88 | SEDL SOC EDUC |
| 48 | SEWING |
| 71 | SHORTHAND |
| 67 | SOCIAL SCIENCE |
| 64 | SPANISH |
| 63 | SPANISH ROLL |
| 65 | SPEC LEARNING DIS |
| 31 | SPECIAL CONSULING |
| 70 | SPECIAL ED |
| 79 | SPECIAL GROUPING |
| 68 | SPEECH |
| 66 | SPEECH CORRECTION |
| 73 | SPEECH IMPROVEMENT |
| 72 | SPEECH THERAPY |
| 76 | TEACHER AIDE |
| 38 | TITLE I READ PROG |
| 18 | TUTORIAL SER LANG |
| 17 | TUTORIAL SER MATH |
| 16 | TUTORIAL SER READING |
| 15 | TUTORIAL SERVICES |
| 40 | VOCATIONAL EDUCATION |
| 69 | WORK STUDY SMALL ANI |
| 58 | 7 MONTH SCHOOL |

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# MSRTS CODES

## HEALTH PROBLEM CODE TABLE

| | | E-H LINKAGES |
|---|---|---|
| 01 | INFECTIVE AND PARASITIC DISEASES | |
| 0101 | DIPTHERIA | |
| 0102 | COCCIDIOIDOMYCOSIS | |
| 0103 | DIARRHEA | 206 |
| 0104 | SALMONELLA OR SHIGELLA | 206 |
| 0105 | HEPATITIS | 206 |
| 0106 | MEASLES | |
| 0107 | MUMPS | |
| 0108 | PEDICULOSIS | 206 |
| 0109 | PERTUSSIS | |
| 0110 | RUBELLA(GERMAN MEASLES) | |
| 0111 | VENEREAL DISEASE | 206 |
| 0112 | TRACHOMA | 201,206 |
| 0113 | TUBERCULOSIS, PULMONARY-ACTIVE | 101,205,206 |
| 0114 | TUBERCULOSIS, PULMONARY-INACTIVE | 206 |
| 0115 | TUBERCULOSIS, REACTOR / CONVERTER | 206 |
| 0116 | TUBERCULOSIS, EXTRA- PULMONARY | 206 |
| 0117 | TUBERCULOSIS, OTHER | 206 |
| 0118 | STREPTOCOCCAL INFECTNS | 206 |
| 0119 | OTHR INFECTIVE, PARASIT. | 206 |
| 02 | NEOPLASMS | |
| 0201 | MALIGNANT | 206 |
| 0202 | BENIGN | 206 |
| 03 | ENDOCRINE, NUTRITIONAL AND METABOLIC DISEASES | |
| 0301 | DIABETES MELLITUS | 101,205,206 |
| 0302 | MALNUTRITION/DEHYDRATN | 101,205,206 |
| 0303 | OBESITY | 205 |
| 0304 | OTHER ENDOCRINE NUTRIT/METABOLIC PROBLEMS | 205,206 |
| 04 | DISEASES OF THE BLOOD FORMING ORGANS | |
| 0401 | SICKLE CELL ANEMIA | 101,203,206 |
| 0402 | HEMOPHILIA | 101,203,206 |
| 0403 | LEUKEMIA | 101,203,206 |
| 0404 | ANEMIA | 101,203,206 |
| 0405 | GLYCEMA | 101,203,206 |
| 05 | DISEASES OF THE NERVOUS SYSTEM | |
| 0501 | PARAPLEGIC/QUADRAPLEGIC | 101,203,204,206 |
| 0502 | BLIND/PARTIALLY BLIND | 201,203 |
| 0503 | CATARACT (EXCEPT CONGENITAL) | 201,203 |
| 0504 | DEAF/PARTIALLY DEAF | 202 |
| 0505 | GLAUCOMA | 201 |
| 0506 | MTR NEURON DISORDER(INC POST-POLIO)MTR IMPRMNT | 101,203 |
| 0507 | OTITIS MEDIA | 202 |
| 0508 | OTHER EAR PROBLEMS | 202 |
| 0509 | OTHER EYE PROBLEMS | 201 |
| 0510 | SPEECH DISTURBANCES | 204 |
| 0511 | OTHER DISEASES OF NERV. SYSTEM/SENSE ORGANS | 206 |

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# HEALTH PROBLEMS CODE TABLE

| | | E-H LINKAGES |
|---|---|---|
| 0512 | ORGANIC VISUAL PROBLEM | |
| 0513 | BINOCULAR VISUAL | |
| 0514 | REFRACTIVE | |
| 0515 | HYPEROPIA | 201 |
| 0516 | MYOPIA | 201 |
| 0517 | ASTIGMATISM | 201 |
| 0518 | NEEDS HEARING AID | 202 |
| 0519 | NEEDS GLASSES | 201 |
| 0520 | WEARS GLASSES | 201,206 |
| 0521 | WEARS HEARING AID | 202 |
| 0522 | REFERRAL | 206 |
| 06 | DISEASES OF THE CIRCULATORY SYSTEM | |
| 0601 | CARDIOVASCULAR DISEASES | 101 |
| 0602 | CEREBRAL VASC. ACCIDENT | 206 |
| 0603 | HYPERTENSION | 206 |
| 0604 | RHEUMATIC FEVER/RHEUMA-TIC HEART DISEASE | 101,206 |
| 0605 | OTHER PROBS OF CIRCULATORY SYSTEM/OTHER HEART | 206 |
| 07 | DISEASES OF THE RESPIRATORY SYSTEM | |
| 0701 | ASTHMA | 101,206 |
| 0702 | INFLUENZA AND PNEUMONIA | 206 |
| 0703 | UPPER RESP. INFECTION, COLD, SORE THROAT, ETC. | 206 |
| 0704 | OTHER RESPIR. DISEASES | 206 |
| 08 | DISEASES OF THE DIGESTIVE SYSTEM | |
| 0801 | DISEASES OF THE LIVER | 206 |
| 0802 | GASTROENTERITIS/COLITIS | |
| 0803 | OTHER PROB OF DIGESTIVE SYSTEM | 206 |
| 09 | DISEASES OF THE GENITO-URINARY SYSTEM | |
| 0901 | DISEASES OF THE KIDNEY/BLADDER | 206 |
| 0902 | DISEASES OF GENITAL ORG | 206 |
| 0903 | OTHER GENITO-URINARY | 206 |
| 10 | DISEASES OF THE SKIN/SUBCUTANEOUS TISSUE | |
| 1001 | IMPETIGO | 206 |
| 1002 | SCABIES | 206 |
| 1003 | RINGWORM | 206 |
| 1004 | DERMATITIS | 206 |
| 1005 | ECZEMA | 206 |
| 1006 | OTHER PROBLEMS OF SKIN/SUBCUTANEOUS TISSUE | 206 |
| 11 | DISEASES OF MUSCULO-SKELETAL SYSTEM/CONNECTIVE TISSUE | |
| 1101 | ARTHRITIS/RHEUMATISM | 101,203 |
| 1102 | OTHER DISEASES OF THE MUSCULO-SKELETAL SYSTEM | 101,203 |
| 12 | CONGENITAL ANOMALIES | |
| 1201 | CARDIO-VASCULAR (HEART DEFECT) | 101,206 |
| 1202 | CONGENITAL HIP (POSSIBLE MOTOR IMPAIRMENT) | 203 |
| 1203 | CLEFT LIP/PALATE (POSS. SPEECH IMPAIRMENT) | 204 |
| 1204 | OTH CONGENIT. ANAMOLIES | 206 |
| 1205 | HERNIA | 101,206 |

# HEALTH PROBLEMS CODE TABLE

| 13 | SYMPTOMS, ILLNESSES--DEFINED CONDITIONS | E - H LINKANGES |
|---|---|---|
| 1301 | CONVULSIVE DISORDERS | 206 |
| 1302 | HEADACHE | 206 |
| 1303 | INFESTATIONS, MITES | 206 |
| 1304 | INFESTATIONS, TICKS | 206 |
| 1305 | OTHER ILL-DEFINED COND. | 206 |
| 14 | ACCIDENTS, TRAUMA AND INJURIES | |
| 1401 | FRACTS. OF SKULL, SPINE, AND TRUNK | 206 |
| 1402 | FRACTS. OF EXTREMITIES | 206 |
| 1403 | DISLOC, SPRAIN, STRAIN | 206 |
| 1404 | LACERATION, OPEN WOUND | 206 |
| 1405 | BURNS | 206 |
| 1406 | POISONING-TOXIC EFFECT | 206 |
| 15 | ALLERGIC CONDITIONS TO EXTRANEOUS AGENTS | |
| 1501 | DETERGENTS | 206 |
| 1502 | OILS AND GREASE | 206 |
| 1503 | SOLVENTS | 206 |
| 1504 | DRUGS | 206 |
| 1505 | CHEMICALS | 206 |
| 1506 | FOODS | 205,206 |
| 1507 | PLANTS | 206 |
| 1508 | ANIMALS | 206 |
| 1509 | ULTRA-VIOLET RADIATION(EXCEPT SUNBURN) | 206 |
| 1510 | UNSPECIFIED CAUSE | 206 |
| 16 | SUPPLEMENTARY CLASSIFICATION | |
| 1601 | HEALTH SUPERVISION | 206 |
| 1602 | PHYSICAL EVALUATION | 206 |
| 1603 | IMMUNIZATIONS | 206 |
| 1604 | AMPUTATION | 101,203,206 |
| 17 | DENTAL HEALTH | |
| 1700 | DENTAL HEALTH | 205,206 |
| 1701 | EXTRACTION | |
| 1702 | FILLINGS | |
| 1703 | PARTIAL | |
| 1704 | DENTURES | |
| 1705 | BRACES | |
| 1706 | PROPHYLAXIS | |
| 1707 | PERMANENT BRIDGE | |
| 1708 | ROOT CANAL | |
| 1709 | CAPPING | |
| 1710 | REFERRAL | |
| 18 | COMMUNCATIVE DISORDERS | |
| 1800 | COMMUNICATIVE DISORDERS | 204 |
| 1801 | DISORD ARTICULATION | 204 |
| 1802 | DISORDERS OF VOICE | 204 |
| 1803 | DISORD LANG. SYMBOLIZAT | 204 |
| 1804 | DISORD RHYTHM (STUTTER) | 204 |

## MSRTS CODES

## TEST CODES TABLE

| CODE | STANDARDIZED TESTS |
|---|---|
| 17300 | ABC INVENTORY TEST |
| 28700 | ACADEMIC APTITUDE TEST |
| 28701 | AAT-VOCABULARY |
| 28702 | AAT-ANALOGIES |
| 28703 | AAT-MEMORY |
| 28704 | AAT-SEQUENCES |
| 28705 | AAT-LANGUAGE |
| 28706 | AAT-NON LANGUAGE |
| 23800 | ACADEMIC PROMISE TEST |
| 27300 | ADULT BASIC LEARNING EXAM |
| 27301 | ABLE-VOCABULARY |
| 27302 | ABLE-READING |
| 27303 | ABLE-SPELLING |
| 27304 | ABLE-MATH COMPUTATION |
| 27305 | ABLE-PROBLEM SOLVING |
| 27306 | ABLE-TOTAL MATH |
| 19900 | AGS FIRST GR SCREEN TEST-BOYS |
| 20000 | AGS FIRST GR SCREEN TEST-GRLS |
| 00100 | AMERICAN COLLEGE TESTING |
| 00101 | ACT-MATH |
| 00102 | ACT-SPELLING |
| 00103 | ACT-READING |
| 00104 | ACT-LANGUAGE |
| 00105 | ACT-SCIENCE |
| 30600 | AMERICAN GUIDANCE SERVICE |
| 30601 | AGS-FIRST GR SCREENING |
| 30602 | AGS-READ READINESS MAT LEVEL |
| 38100 | AMERICAN SCH ACHIEVEMENT TST |
| 37500 | ANALYSIS READINESS SKILLS H M |
| 30100 | ANTON BRENNER SCHOOL READINESS |
| 19300 | APELL-ASMT PRO EAR LRNG LVLS |
| 00200 | ARITHMETIC ACHIEVEMENT TEST |
| 00300 | ARMED SERVICES APTITUDE |
| 00301 | ASA-ELECTRONICS |
| 00302 | ASA-MOTOR MECHANICS |
| 00303 | ASA-GENERAL MECHANICS |
| 00304 | ASA-CLERICAL |
| 00305 | ASA-GENERAL TECHNICAL |
| 37700 | ARMED SERVICES VOC APT BATTERY |
| 37701 | ASVAB-ELECTRONICS |
| 37702 | ASVAB-MOTOR MECHANICS |
| 37703 | ASVAB-GENERAL MECHANICS |
| 37704 | ASVAB-CLERICAL ADM. |
| 37705 | ASVAB-GENERAL TECHNICAL |
| 30000 | ASSESSMENT CHILDREN LANG COMP |
| 30001 | ACLC-VOCABULARY |
| 30002 | ACLC-TWO CRITICAL ELEMENTS |
| 30003 | ACLC-THREE CRITICAL ELEMENTS |
| 30004 | ACLC-FOUR CRITICAL ELEMENTS |
| 26100 | ATTITUDE 66 |

| CODE | STANDARDIZED TESTS |
|---|---|
| 01100 | B CALDWELL COOP PRE-SCH INV T |
| 17600 | BARNELL LOFT SERIES |
| 37300 | BASIC ARITH SKILL EVAL-BASE |
| 00400 | BASIC CONCEPT INVENTORY |
| 31200 | BASIC EDUCATION SKLS INVENTORY |
| 31201 | BESI-READING |
| 31202 | BESI-MATH |
| 27200 | BASIC READING ACHIEVEMENT TEST |
| 27201 | BRAT-DECODING SKILLS |
| 27202 | BRAT-COMPREHENSION SKILLS |
| 27203 | BRAT-REFERENCE AND STUDY SKL |
| 27204 | BRAT-LITERARY SKILLS |
| 00700 | BENDER VIS-MOTOR GESTALT TEST |
| 00800 | BENTON TST OF VIS-MTR INTEGRAT |
| 00900 | BERRY BAKTENICA |
| 01000 | BETTIS VISUAL DISCRIMINATION |
| 36300 | BILINGUAL SYNTAX MS ENG BSM-E |
| 36200 | BILINGUAL SYNTAX MS SPAN BSM-S |
| 26000 | BOBBS MERRILL READING TEST |
| 35900 | BOBBS-MERRILL ARITHMETIC TEST |
| 19500 | BOEHM OF BASIC CONCEPTS |
| 26600 | BOEHM TEST ENGLISH |
| 26500 | BOEHM TEST SPANISH |
| 23400 | BOOKMARK READINESS |
| 31700 | BOTEL MATH |
| 01200 | BOTEL READING TEST |
| 01201 | BRT-PHONICS |
| 01202 | BRT-WORD RECOGNITION |
| 01203 | BRT-WORD OPPOSITE |
| 00500 | BRL-MATH |
| 00600 | BRL-READING |
| 01400 | CALIF TEST OF ACAD ACHIEVEMENT |
| 01500 | CALIF TEST OF BASIC SKILLS |
| 01501 | CTBS-LANGUAGE |
| 01502 | CTBS-MATH |
| 01503 | CTBS-READING |
| 01504 | CTBS-STUDY SKILLS |
| 01600 | CALIF TEST OF MENTAL MATURITY |
| 01300 | CALIF ACHIEVEMENT TEST |
| 01301 | CAT-LANGUAGE |
| 01302 | CAT-MATH |
| 01303 | CAT-READING |
| 01304 | CAT-WORD MEANING |
| 01305 | CAT-PARAGRAPH MEANING |
| 01306 | CAT-SOCIAL STUDIES |
| 01307 | CAT-SPELLING |
| 01308 | CAT-VOCABULARY |
| 01309 | CAT-MATH COMPREHENSION |
| 01310 | CAT-MATH CONCEPTS |
| 01311 | CAT-READING COMPREHENSION |

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## TEST CODES TABLE

| | |
|---|---|
| 01312 | CAT-MATH COMPUTATION |
| 22600 | CALIFORNIA PRESCHOOL SOC COMP |
| 32200 | CARROW LEARNING CONCEPTS |
| 18400 | CATTELL CULTURE FAIR TST |
| 01700 | CHILD DEVELOPMENT ANALYSIS |
| 24900 | CHILD STUDY TEAM EVALUATION |
| 01800 | CHILDREN'S APPERCEPTION TEST |
| 01900 | CLASSROOM READING INVENTORY |
| 02000 | CLYMER BARRETT TEST |
| 19400 | COGNITIVE ABILITY TEST |
| 19401 | CAT-VERBAL |
| 19402 | CAT-QUANTITATIVE |
| 19403 | CAT-NON VERBAL |
| 02100 | COLLEGE ABILITY TEST |
| 37800 | COLLEGE BOARD SCH APT TST SAT |
| 02200 | COLUMBIA TEST OF MENT MATURITY |
| 19700 | COMMON CONCEPTS FOREIGN LANG |
| 02300 | COMP TEST OF BASIC SKILLS |
| 02301 | CTBS-LANGUAGE |
| 02302 | CTBS-MATH |
| 02303 | CTBS-READING |
| 02304 | CTBS-COMPREHENSION |
| 02305 | CTBS-VOCABULARY |
| 02306 | CTBS-TOTAL PRE-MATH |
| 02307 | CTBS-PRE READING TOTAL |
| 02308 | CTBS-PR ALPHABET SKILLS |
| 02309 | CTBS-PR LISTENING FOR INFO |
| 02310 | CTBS-PR LETTER SOUNDS |
| 02311 | CTBS-PR VISUAL/AUD DISCRIM |
| 02312 | CTBS-PR LANGUAGE |
| 02313 | CTBS-SCIENCE |
| 02314 | CTBS-SOCIAL STUDIES |
| 02315 | CTBS-STUDY SKILLS |
| 02316 | CTBS-LANG MECHANICS |
| 02317 | CTBS-LANG EXPRESSION |
| 37200 | CONTINOUS PROG IN SPELLING TST |
| 02400 | COOPER-SMITH ENGLISH |
| 02500 | COOPER-SMITH SPANISH |
| 02600 | COOPERATIVE LISTENING |
| 02700 | COOPERATIVE MATH |
| 21600 | COOPERATIVE PRE SCHOOL INVEN |
| 19800 | COOPERATIVE PRIMARY (GR 1) |
| 19801 | CP-LANGUAGE |
| 19802 | CP-MATH |
| 19803 | CP-READING |
| 19804 | CP-LISTENING |
| 19805 | CP-WORD ANALYSIS |
| 02800 | COOPERATIVE PRIMARY (GR 2) |
| 02801 | CP-LANGUAGE |
| 02802 | CP-MATH |
| 02803 | CP-READING |
| 02804 | CP-LISTENING |
| 02805 | CP-WORD ANALYSIS |
| 02806 | CP-WRITING SKILLS |
| 02900 | COOPERATIVE PRIMARY (GR 3) |
| 02901 | CP-LANGUAGE |
| 02902 | CP-MATH |
| 02903 | CP-READING |
| 02904 | CP-LISTENING |
| 02905 | CP-WORD ANALYSIS |
| 02906 | CP-WRITING SKILLS |
| 03000 | COOPERATIVE READING |
| 31300 | CROSS CULTURAL APTITUDE |
| 03100 | DAVIS READING |
| 28300 | DENVER DEVELOP SCREENING TEST |
| 28301 | DDST-GROSS MOTOR |
| 28302 | DDST-FINE MOTOR ADAPTIVE |
| 28303 | DDST-LANGUAGE |
| 28304 | DDST-PERSONAL-SOCIAL |
| 03200 | DETROIT TEST OF LEARN ABIL |
| 29100 | DEVELOPMENT TST OF VIS PERCEP |
| 29101 | DTVP-EYE MOTOR COORDINATION |
| 29102 | DTVP-FIGURE GROUND |
| 29103 | DTVP-FORM CONSTANCY |
| 29104 | DTVP-POSITION IN SPACE |
| 29105 | DTVP-SPECIAL RELATIONS |
| 34900 | DIAGNOSTIC RDG TESTS BK I PT |
| 34901 | DRT-WORD RECOGNITION |
| 34902 | DRT-COMPREHENSION |
| 34800 | DIAGNOSTIC RDG TESTS BK III |
| 34801 | DRT-WORD RECOGNITION |
| 34802 | DRT-COMPREHENSION |
| 34803 | DRT-TOTAL SCORE |
| 35100 | DIAGNOSTIC RDG TESTS SECT II |
| 35000 | DIAGNOSTIC RDG TESTS SECT IV |
| 23000 | DIAGNOSTIC READING SCALE |
| 34600 | DIAGNOSTIC READING TESTS BK I |
| 34601 | DRT-VISUAL DISCRIMINATION |
| 34602 | DRT-AUDITORY DISCRIMINATION |
| 34603 | DRT-VOCABULARY |
| 34604 | DRT-STORY READING |
| 34700 | DIAGNOSTIC READING TESTS BK II |
| 34701 | DRT-WORD RECOGNITION |
| 34702 | DRT-COMPREHENSION |
| 34703 | DRT-TOTAL SCORE |
| 03300 | DIFFERENTIAL APTITUDE TEST |
| 03301 | DAT-VERBAL REASONING |
| 03302 | DAT-NUMERICAL ABILITY |
| 03303 | DAT-ABSTRACT REASONING |
| 03304 | DAT-CLER SPEED-ACCUR |
| 03305 | DAT-MECHANICAL REASONING |
| 03306 | DAT-SPACE RELATIONS |
| 03307 | DAT-SPELLING |
| 03308 | DAT-GRAMMAR |
| 03309 | DAT-MATH |
| 03310 | DAT-READING |

# TEST CODES TABLE

| | |
|---|---|
| 03311 | DAT-LANGUAGE |
| 03500 | DISTAR LANGUAGE |
| 33000 | DISTAR MATH |
| 03400 | DISTAR READING |
| 03600 | DOLCH WORD LIST |
| 20300 | DOREN DIAGNOSTIC READING TEST |
| 29500 | DOS AMIGOS-SPANISH |
| 29600 | DOS AMIGOS-SPANISH |
| 03700 | DRAW-A-PERSON |
| 04100 | DURRELL ANALYSIS OF READ DIFF |
| 03800 | DURRELL DIAGNOSTIC READING |
| 03900 | DURRELL LISTENING |
| 04000 | DURRELL READING ANALYSIS |
| 04200 | DURRELL SULLIVAN TEST |
| 28200 | DURRELL-READING AND LISTENING |
| 25400 | E.D.L. -MATH |
| 37100 | EARLY CHILDHOOD S MASTERY SEDL |
| 37000 | EARLY CHILDHOOD SYS PRE SEDL |
| 32700 | EARLY PREV OF SCH FAILURE PROG |
| 22200 | ECONOMY COMPANY COMPETENCY TST |
| 30900 | EDUCATION DEVELOP SERIES |
| 30901 | EDS-MUSIC INTEREST |
| 30902 | EDS-ART INTEREST |
| 30903 | EDS-MATH INTEREST |
| 30904 | EDS-SCIENCE INTEREST |
| 30905 | EDS-SOCIAL STUDIES INTEREST |
| 30906 | EDS-ENGLISH INTEREST |
| 30907 | EDS-FOREIGN LANG INTEREST |
| 30908 | EDS-VOCATIONS INTEREST |
| 30909 | EDS-ABST REASN ABLTY COMPOSI |
| 30910 | EDS-BAS SKLS RDNG COMPOSITE |
| 30911 | EDS-BAS SKLS ENG COMPOSITE |
| 30912 | EDS-BAS SKLS MATH COMPOSITE |
| 25500 | EDWARD FRY INSTANT WORD LIST |
| 25800 | EMI CONTINUOUS CURRICULUM |
| 17700 | EMPORIA ELEMENTARY TEST |
| 17701 | EET-READING |
| 17702 | EET-MATH |
| 30700 | ENGELMANN CORR READERS PROG |
| 04300 | FIRST READER ACHIEVEMENT |
| 04400 | FLORIDA STATE GRADE |
| 04401 | FSG-READING |
| 04402 | FSG-MATH |
| 04403 | FSG-CAREER AWARENESS |
| 17500 | FOUNTAIN VALLEY DIAG TEST |
| 17501 | FVDT-READING |
| 17502 | FVDT-MATH |
| 28100 | FOUNTAIN VALLEY READING SKILLS |
| 28102 | FVRS-PHONETIC ANALYSIS |
| 28102 | FVRS-STRUCTURAL ANALYSIS |
| 28103 | FVRS-VOCABULRY DEVELOP |
| 28104 | FVRS-COMPREHENSION STUDY SKL |
| 500 | FOURTH GRADE ACHIEVEMENT |
| 04600 | FROSTIG TEST OF VISUAL PERCEPT |
| 04601 | FTVP-EYE MOTOR COORDINATION |
| 04602 | FTVP-FIGURE GROUND |
| 04603 | FTVP-FORM CONSISTENCY |
| 04604 | FTVP-POSITION IN SPACE |
| 04605 | FTVP-SPATIAL RELATIONS |
| 27500 | FUNDAMENTALS EVALUATION TEST |
| 04800 | GATES MACGINITE GEN READING |
| 04801 | GMGR-VOCABULARY |
| 04802 | GMGR-COMPREHENSION |
| 04803 | GMGR-SPEED |
| 04804 | GMGR-ACCURACY |
| 04805 | GMGR-SILENT READING |
| 04806 | GMGR-READINESS SKILLS |
| 24600 | GATES MCKILLOP AUT DISC |
| 24500 | GATES MCKILLOP READ DIAG TEST |
| 20100 | GATES READING SURVEY |
| 20101 | GRS-SPEED |
| 20102 | GRS-VOCABULARY |
| 20103 | GRS-COMPREHENSION |
| 20104 | GRS-ACCURACY |
| 04700 | GATES-MACGINITE ACHIEVEMENT |
| 04900 | GENERAL APTITUDE TEST BATTERY |
| 04901 | GA-VERBAL |
| 04902 | GA-NUMERICAL |
| 04903 | GA-SPATIAL |
| 04904 | GA-FORM PERCEPTION |
| 04905 | GA-CLERICAL PERCEPTION |
| 04906 | GA-MOTOR COORDINATION |
| 04907 | GA-FINGER DEXTERITY |
| 04908 | GA-MANUAL DEXTERITY |
| 05000 | GILMORE ORAL |
| 05001 | GO-ACCURACY |
| 05002 | GO-COMPREHENSION |
| 05003 | GO-RATE |
| 05100 | GINN BASIC ACHIEVEMENT |
| 05200 | GINN BASIC READINESS |
| 05300 | GINN READINESS (4TH) |
| 05301 | GR-360 INIT SCREEN |
| 05400 | GOLDMAN-FRISTOE TEST OF ARTIC |
| 24200 | GOLDMAN-FRISTOE TST-AUDIO DISC |
| 24201 | GFTAD-QUIET SUBTEST |
| 24202 | GFTAD-NOISE SUBTEST |
| 05500 | GRAY ORAL READING TEST |
| 05600 | GRAY-VOTAW-ROGERS GEN ACH TEST |
| 05700 | GREATER CLEVELAND MATH |
| 05800 | HARPER AND ROW ACHIEVEMENT |
| 05801 | HRA-READING READINESS |
| 05802 | HRA-READINESS |
| 05803 | HRA-4TH YR READINESS |
| 21400 | HARPER AND ROW PRE PRIMER |
| 21300 | HARPER AND ROW PRE READING |
| 34200 | HEALTH ELEM MATH PLACEMENT TEST |

## TEST CODES TABLE

| | |
|---|---|
| 20200 | HENMON NELSON |
| 05900 | HOFFMAN READING READINESS |
| 25600 | HOFFMAN-MATH |
| 34500 | HOLT BASIC RDG SYSTEM RDG INV |
| 29800 | HOUGHTON MIFFLIN CONTENT EVAL |
| 29801 | HMCE-MATH |
| 29802 | HMCE-SCIENCE |
| 29803 | HMCE-LANGUAGE |
| 18000 | HOUGHTON MIFFLIN ICSP |
| 28000 | HOUGHTON MIFFLIN READERS INVEN |
| 24000 | HUMAN FIGURE DRAWING |
| 06100 | ILL TEST-PSYCHOLINGUISTIC ABIL |
| 06000 | ILLINOIS TEST OF PSYCHOLOGY |
| 30200 | ILYIN ORAL INTERVIEW |
| 33500 | IMPERIAL BASIC ARITH SKL EVAL |
| 33600 | IMPERIAL BASIC RDG SKL EVAL |
| 36000 | IND PUPIL MONITORING SYS IPMS |
| 36001 | IPMS-VOCAB AND COMP |
| 36002 | IPMS-WORD-ATTACK |
| 36003 | IPMS-DISCRIM/STUDY SKILLS |
| 30800 | INDIANA TST BASIC READ SKLS |
| 06200 | INFORMAL READING INVENTORY |
| 06600 | INTER-AMER VERBAL-NUMERIC ENG |
| 06700 | INTER-AMER VERBAL-NUMERIC SPAN |
| 06300 | INTER-AMERICAN PREKINDERGARTEN |
| 06400 | INTER-AMERICAN SERIES |
| 06401 | IAS-READING-ENGLISH |
| 06402 | IAS-READING-SPANISH |
| 06500 | INTER-AMERICAN TOTAL SCORE |
| 32400 | INV OF READINESS SKILLS-ENG |
| 32500 | INV OF READINESS SKILLS-SPAN |
| 28500 | INVENTORY OF DEVELOP TASKS |
| 28501 | IDT-COORDINATION |
| 28502 | IDT-EYE-HAND |
| 28503 | IDT-VISION |
| 28504 | IDT-VISUAL MEMORY |
| 28505 | IDT-AUDITORY DISCRIMINATION |
| 28506 | IDT-AUDITORY MEMORY |
| 28507 | IDT-RECEIVING LANGUAGE |
| 28508 | IDT-LANGUAGE EXPRESSING |
| 06800 | IOWA BASIC LANG COMP TEST-LVL 1 |
| 06801 | IBLCT-ORAL VOCABULARY |
| 06802 | IBLCT-COM DEMAND DIRECTION |
| 06803 | IBLCT-REC INTERR PATTERN |
| 06804 | IBLCT-PHONEMIC DIS AT WORK |
| 06805 | IBLCT-PRO OF GRAMMATICAL STR |
| 06806 | IBLCT-ASSIMILATION MEANING |
| 06900 | IOWA BASIC LANG COMP TEST-LVL 2 |
| 06901 | IBLCT-ORAL VOCABULARY |
| 06902 | IBLCT-PHONEMIC DIS WRD PHR |
| 06903 | IBLCT-PHONEMIC DIS SENTENCE |
| 06904 | IBLCT-GRAMM SENSITIVITY |
| 06905 | IBLCT-GRAM DISCRIMINATION |
| 06906 | IBLCT-ASSIMILATION MEANING |
| 28800 | IOWA SILENT RDG TST-VOCABULARY |
| 28801 | ISRT-READING COMPREHENSION |
| 28802 | ISRT-READING POWER |
| 28803 | ISRT-DIRECTED READING |
| 28804 | ISRT-READING EFFICIENCY |
| 07000 | IOWA TEST OF BASIC SKILLS |
| 07001 | ITBS-READING |
| 07002 | ITBS-SPELLING |
| 07003 | ITBS-LANGUAGE |
| 07004 | ITBS-MATH |
| 07005 | ITBS-VOCABULARY |
| 07006 | ITBS-STUDY SKILLS |
| 07007 | ITBS-COMPOSITE |
| 07008 | ITBS-MODERN MATH |
| 07100 | IOWA TEST OF EDUC DEVELOPMENT |
| 07101 | ITED-READING |
| 07102 | ITED-LANGUAGE |
| 07103 | ITED-MATH |
| 07104 | ITED-SOC STUDIES |
| 07105 | ITED-SCIENCE |
| 33900 | JAMES LANGUAGE DOMINANCE TEST |
| 07200 | K-GARTEN EVAL LEARN POTENTIAL |
| 21500 | KEY MATH |
| 19100 | KEY MATH DIAG TST-ARITH |
| 19000 | KOTTMEYER DIAG TST-SPELLING |
| 27000 | KUDER GENERAL INTEREST |
| 07300 | KUDER INTEREST INVENTORY |
| 07301 | KIT-ARTISTIC |
| 07302 | KII-MUSICAL |
| 07303 | KII-CLERICAL |
| 07304 | KII-SOCIAL SERVICES |
| 07305 | KII-MECHANICAL |
| 07306 | KII-SCIENTIFIC |
| 20500 | KUDER PREFERENCE RECORD VOC |
| 07400 | KUDER PRIMARY READING |
| 07500 | KUHLMANN ANDERSON |
| 07600 | KUHLMANN-FINCH TEST |
| 30400 | LANG AND SPEECH SCREENING TST |
| 35600 | LANGUAGE FACILITY TEST |
| 35601 | LFT-SPANISH-ORAL |
| 35602 | LFT-ENGLISH-ORAL |
| 33400 | LEARNING CONCEPTS |
| 33401 | LC-MOTOR |
| 33402 | LC-VISUAL |
| 33403 | LC-AUDITORY |
| 33404 | LC-LANGUAGE |
| 27400 | LEE CLARK READING READINESS |
| 27401 | LCRR-LETTER SYMBOLS |
| 27402 | LCRR-CONCEPTS |
| 27403 | LCRR-WORD SYMBOLS |
| 07700 | LEE CLARK READING TEST |
| 07800 | LEITER INTERNAT PERFORM SCALE |

# TEST CODES TABLE

| | |
|---|---|
| 07900 | LETS LEARN LANGUAGE |
| 100 | LINGUISTIC CAPACITY INDEX |
| 08000 | LIPPINCOTT BASIC |
| 08100 | LIPPINCOTT READINESS |
| 25300 | LISTENING FOR SOUND |
| 08200 | LORGE THORNDIKE |
| 08201 | LT-VERBAL |
| 08202 | LT-NON VERBAL |
| 08300 | LYONS CARNAHAN READING |
| 36500 | MACMILLAN SPECTRUM OF SKILLS |
| 36501 | MSS-VOCABULARY DEV |
| 36502 | MSS-READING COMPREHENSION |
| 36503 | MSS-WORD ANALYSIS |
| 23700 | MAINTAINING READING EFFICIENCY |
| 20600 | MALHEUR-VOCABULARY |
| 20601 | MVE-VOCABULARY RECEPTIVE |
| 08400 | MARIANNE FROSTIG VIS PERCEPT |
| 35300 | MARYSVILLE TEST OF LANG DOMIN |
| 35301 | MTLD-ENGLISH |
| 35302 | MTLD-SPANISH |
| 35303 | MTLD-PUNJABI |
| 35304 | MTLD-OTHER |
| 17800 | MASSACHUSETTS ACHIEVEMENT TST |
| 08500 | MATH PLACEMENT |
| 08600 | MATH READING INV |
| 08700 | MCDANIEL SELF CONCEPT |
| 200 | MCGRAW-HILL PLUS 4 ORAL RDG |
| 08800 | MCMILLIAN READING |
| 09000 | METRO PRIMARY 2 |
| 09100 | METRO READINESS TEST |
| 09101 | MRT-WORD MEANING |
| 09102 | MRT-LISTENING |
| 09103 | MRT-MATCHING |
| 09104 | MRT-ALPHABET |
| 09105 | MRT-NUMBERS |
| 09106 | MRT-COPYING |
| 09107 | MRT-MATH |
| 09108 | MRT-LANGUAGE |
| 09200 | METRO ROACH TEST METRO POLIT |
| 09300 | METRO TOTAL |
| 08900 | METROPOLITAN ACHIEVEMENT TEST |
| 08901 | MAT-LANGUAGE |
| 08902 | MAT-MATH COMPUTATION |
| 08903 | MAT-READING |
| 08904 | MAT-SPELLING |
| 08905 | MAT-WORD KNOWLEDGE |
| 08906 | MAT-WORD ANALYSIS |
| 08907 | MAT-MATH CONCEPTS |
| 08908 | MAT-MATH PROB SOLV |
| 08909 | MAT-SCIENCE |
| 08910 | MAT-SOCIAL STUDIES |
| 08911 | MAT-LISTENING |
| 08912 | MAT-MATH TOTAL |
| 09400 | MICH ORAL LANG ASSESSMENT TEST |
| 22500 | MICHIGAN EDUCATION ASSESSMENT |
| 18300 | MICHIGAN MATH PROGRAM |
| 35700 | MONROE GROUP DIAG AND ACH TST |
| 35701 | MGDAT-PARAGRAPH READING |
| 35702 | MGDAT-SPEED READING |
| 35703 | MGDAT-WORD DISCRIMINATION |
| 35704 | MGDAT-ARITHMETIC |
| 35705 | MGDAT-SPELLING |
| 35706 | MGDAT-VISUAL |
| 35707 | MGDAT-AUDITORY |
| 35708 | MGDAT-MOTOR |
| 35709 | MGDAT-LANGUAGE |
| 18200 | MONROE ORAL TEST |
| 27600 | MONROE SCREENING-ORAL LANG TST |
| 25700 | MORENO ORAL ENG PROFICIENCY |
| 26300 | MORENO ORAL SPAN PROFICIENCY |
| 33800 | MOTOR TEST |
| 21900 | MULTIPLE APTITUDE TEST |
| 09500 | NAT EDUC DEVELOPMENT TESTS |
| 09600 | NELSON READING |
| 09601 | NR-VOCABULARY |
| 09602 | NR-PARAGRAPH |
| 09603 | NR-SUBTOTAL |
| 21100 | NELSON-DENNY READING TEST |
| 18900 | NEW DEVELOPMENT READING |
| 18901 | NDR-WORD RECOGNITION |
| 18902 | NDR-COMPREHENDING SIG IDEAS |
| 35400 | NEW YORK STATE COMPETENCY TEST |
| 35401 | NYSCT-READING |
| 35402 | NYSCT-MATH |
| 17900 | NEW YORK STATE TEST |
| 17901 | NYST-READING |
| 17902 | NYST-MATH |
| 23500 | NEWS RANGER SILENT READING TST |
| 32000 | NEWS TRAIL |
| 32001 | NT-READING TEST |
| 32002 | NT-WORK STUDY SKILLS |
| 32003 | NT-MAPS |
| 09700 | NORTH WEST SYNTAX |
| 09701 | NWS-EXPRESSIVE |
| 09702 | NWS-RECEPTIVE |
| 34400 | NY HIGH SCH EQUIVALENCY EXAM |
| 35500 | NY PUPIL EVAL PERFORMANCE PEP |
| 35501 | NYPEP-READING |
| 35502 | NYPEP-MATH |
| 35800 | OHIO SURVEY TEST |
| 35801 | OST-ACADEMIC ABILITY |
| 35802 | OST-ACHIEVEMENT |
| 35803 | OST-ENGLISH EXPRESSION |
| 35804 | OST-MATH |
| 22800 | OHIO VOCATIONAL INTERESTS |
| 33300 | OLE-ORAL LANG EVAL ENG-SPAN |

## TEST CODES TABLE

| | |
|---|---|
| 33301 | OLE-STRUCTURES |
| 33302 | OLE-MOV-CON-WORDS |
| 09800 | OLMAT READING TEST |
| 20700 | OLTMAN |
| 20701 | O-READING |
| 20702 | O-MATH |
| 38000 | OPEN COURT |
| 09900 | OPEN HIGHWAYS ROAD TEST |
| 10000 | ORAL ENGLISH DEVELOPMENT |
| 10100 | ORAL ENGLISH PROFICIENCY |
| 18100 | ORAL LANGUAGE ASSESSMENT |
| 31400 | ORAL LONG FACILITY |
| 33100 | ORAL SCH ATTITUDE TEST SPANISH |
| 20800 | ORAL TEST FOR NON ENG SPEAKERS |
| 10200 | ORLEANS HANNA |
| 10201 | OH-ALGEBRA PROGRESS |
| 10202 | OH-GEOMETRY PROGRESS |
| 10300 | OTIS LENNON MENTAL ABIL TEST |
| 10400 | OTIS QUICK SCOR MENT ABILITY |
| 10500 | PALOMARES HUMAN DEVELPMNT FILE |
| 10600 | PEABODY ACHIEVEMENT |
| 10800 | PEABODY INDIVIDUAL TEST |
| 10801 | PIT-MATH |
| 10802 | PIT-READING RECOGNITION |
| 10803 | PIT-READING COMPREHENSION |
| 10804 | PIT-SPELLING |
| 10805 | PIT-GEN INFORMATION |
| 10806 | PIT-LANGUAGE |
| 25100 | PEABODY PICTURE VOCAB-SPANISH |
| 10700 | PEABODY PICTURE VOCABULARY |
| 10900 | PEABODY VISUAL PERCEPTION-ENG |
| 11000 | PEABODY VISUAL PERCEPTION-SPAN |
| 22700 | PERCEPTUAL SKILL TEST |
| 11100 | PHONICS CHECKLIST |
| 28600 | PHONICS KNOWLEDGE SURVEY |
| 11200 | PHOTO ARTICULATION TEST |
| 38200 | PICT TST BILINGUAL LANG DOM |
| 20900 | PICTORIAL DIF SCALE TEST |
| 28900 | PIERS HARRIS SELF-CON SCALE |
| 11300 | PINTNER-CUNNINGHAM GEN ABILITY |
| 11400 | PINTNER-CUNNINGHAM PRIMARY TST |
| 32800 | PLACEMENT TEST |
| 32801 | PT-VOCABULARY |
| 32802 | PT-VISUAL DISCRIMINATION |
| 32803 | PT-AUDITORY DISCRIMINATION |
| 32804 | PT-CLASSIFICATION |
| 32805 | PT-RHYME |
| 32806 | PT-ALPHABET RECOGNITION |
| 32807 | PT-SOUND LETTERS ASSOCIATION |
| 32808 | PT-RIDDLES |
| 32809 | PT-SEQUENCE |
| 32810 | PT-PICTURE WORD ASSOCIATION |
| 32811 | PT-LETTER FORMATION |
| 32812 | PT-SPELLING |
| 37900 | PMA READINESS LEVEL SPRA |
| 37901 | PMARL-AUDITORY DISCRIM |
| 37902 | PMARL-VERBAL MEANING |
| 37003 | PMARL-PERCEPTUAL SPEED |
| 37904 | PMARL-NUMBER FACILITY |
| 37905 | PMARL-SPATIAL RELATIONS |
| 30300 | PRE DIAGNOSTIC READING TEST |
| 21200 | PRELIMINARY SCHOLASTIC APT TST |
| 11500 | PREREADING INVENTORY |
| 11501 | PRI-SURVEY TEST |
| 11502 | PRI-DIAGNOSTIC |
| 11600 | PRESCHOOL ACADEMIC CHECKLIST |
| 32900 | PRESCHOOL ATTAINMENT RECORD |
| 11700 | PRESCHOOL INVENTORY |
| 33700 | PRESCHOOL LANGUAGE SCALE |
| 11800 | PRESCRIPTIVE READING INVENTORY |
| 11900 | PRIMARY MENTAL ABILITY |
| 12000 | PRIMARY READING PROGRAM |
| 29200 | PRIMARY SELF CONCEPT INVENTORY |
| 27700 | PRIMARY SELF CONCEPT-BOYS |
| 27800 | PRIMARY SELF CONCEPT-GIRLS |
| 36600 | PRUEBA DE HABILIDAD GENERAL |
| 36700 | PRUEBA DE LECTURA |
| 49900 | PS 71 72 |
| 49901 | PS 72 73 |
| 49902 | PS 73 74 |
| 49903 | PS 74 75 |
| 49904 | PS 75 76 |
| 49905 | PS 76 77 |
| 49906 | PS 77 78 |
| 49907 | PS 78 79 |
| 49908 | PS 79 80 |
| 49909 | FMF |
| 49910 | PS 81 82 |
| 27100 | PUPIL PLACEMENT TEST |
| 12100 | QUEENS VOCABULARY |
| 34300 | QUICK GAUGE OF READING ABILITY |
| 35200 | QUICK MATH INVENTORY |
| 12500 | READ COMP-COOP ENG TEST |
| 12300 | READ FOR MEANING |
| 12400 | READINESS IN LANGUAGE ARTS |
| 21800 | READINESS SKILL TEST |
| 12600 | READING INVENTORY |
| 12700 | READING PLACEMENT |
| 12200 | READING PROFILE |
| 12800 | READING READINESS TEST |
| 23600 | READING VERSITILITY TEST |
| 23601 | RVT-COMPREHENSION |
| 23602 | RVT-VOCABULARY |
| 32100 | RESOURCE CENTER SPELL TST |
| 36400 | RESOURCE CENTER SPELLING |
| 22300 | SAGINAW OBJECTIVE REF TEST |

## TEST CODES TABLE

| | |
|---|---|
| 22301 | SORT-MATH |
| 22302 | SORT-READING |
| 29900 | SAN DIEGO QUICK ASSESSMENT |
| 12900 | SAR PRIMARY MENTAL ABILITY |
| 31600 | SAT PRI II TOTAL MATH |
| 31500 | SAT PRI II TOTAL READING |
| 21700 | SCAT |
| 21701 | SCAT-VERBAL |
| 21702 | SCAT-MATH |
| 13000 | SCH TEST-EDUC DEVELOP SERIES |
| 31900 | SCHOLASTIC NEWSTIME |
| 37400 | SCHOOL READINESS SURVEY |
| 18500 | SCI ORAL LANG LESSON POST TST |
| 13200 | SCI RESRCH ASSOC OF EDUC ABIL |
| 25900 | SCOTT FORESMAN BASIC RDG TST |
| 24300 | SCOTT FORESMAN INI SUR TST |
| 24301 | SFIST-VOCABULARY SURVEY |
| 13300 | SCOTT FORESMAN READING INV |
| 13400 | SCREEN ABILITY 2 |
| 13500 | SCREEN TEST |
| 13600 | SECOND READER ACHIEVEMENT |
| 13700 | SELF APPRAISAL INVENTORY |
| 13800 | SEQUENTIAL TEST OF EDUC PROG |
| 13801 | STEP-READING |
| 13802 | STEP-MATH |
| 26400 | SHAW-HIELE COMPUTATION TEST |
| 13900 | SHRT FORM TST OF ACAD APTITUDE |
| 14000 | SHRT TEST OF EDUC ABILITY |
| 14100 | SILENT READING DIAGNOSTIC TEST |
| 14200 | SILVAROLI READING INVENTORY |
| 14201 | SRI-INDEPENDENT LEVEL |
| 14202 | SRI-INSTRUCTIONAL LEVEL |
| 14203 | SRI-FRUSTRATIONAL LEVEL |
| 14204 | SRI-HEARING CAPACITY |
| 24700 | SILVAROLI SPELLING INVENTORY |
| 14300 | SILVAROLI WORD RECOGNITION |
| 34100 | SILVER BURDETT MATH TEST |
| 14400 | SIXTH GRADE READINESS |
| 14500 | SKOCZYLOS LANGUAGE |
| 34000 | SLINGERLAND PRE RDG SCREENING |
| 34001 | SPRS-VIS DISCRIM LETTER FRMS |
| 34002 | SPRS-VIS DISCRIM WORD FRMS |
| 34003 | SPRS-VIS PERCEPTION MEMORY |
| 34004 | SPRS-AUDITORY DISCRIMINATION |
| 34005 | SPRS-LETTER KNOWLEDGE ALPHA |
| 36900 | SLOSSON DRAWING COORDINATION |
| 24800 | SLOSSON ORAL READING TEST-GEN |
| 14600 | SLOSSON ORAL READING TEST-IND |
| 36100 | SOBER-ESPANOL |
| 23100 | SOUTH EAST REGION NORM |
| 23101 | SERN-READING |
| 23102 | SERN-MATH |
| 700 | SOUTHWESTERN COOP EDUC LAB |
| 14800 | SPACE PHONICS |
| 21000 | SPACHE READING |
| 25000 | SPIRE READING TEST |
| 13100 | SRA ACHIEVEMENT TEST |
| 13101 | SRAAT-MATH |
| 13102 | SRAAT-READING |
| 13103 | SRAAT-SOCIAL STUDIES |
| 13104 | SRAAT-SCIENCE |
| 13105 | SRAAT-LANGUAGE ARTS |
| 13106 | SRAAT-USE OF SOURCES |
| 13107 | SRAAT-COMPOSITE SCORE |
| 25200 | SRA ASSESSMENT SURVEY |
| 25201 | SRA-MATH ASSESSMENT |
| 25202 | SRA-READING ASSESSMENT |
| 25203 | SRA-SOC. STUDIES ASSESSMENT |
| 25204 | SRA-SCIENCE ASSESSMENT |
| 25205 | SRA-LANGUAGE ASSESSMENT |
| 33200 | SRA HIGH SCHOOL PLACEMENT |
| 18800 | SRA LANGUAGE |
| 14900 | SRA NAT EDUC DEVELOP TEST |
| 15000 | STAN EARLY ACHIEVEMENT TEST |
| 15001 | SEAT-READING |
| 15002 | SEAT-MATH |
| 15003 | SET-ENVIRONMENT |
| 15004 | SEAT-LETTERS AND SOUNDS |
| 15005 | SEAT-WORD READING |
| 15006 | SEAT-SENTENCE READING |
| 15007 | SEAT-AURAL COMPREHENSIVE |
| 22400 | STANDARD ED STATE ASSESSMENT |
| 22401 | SESA-MATH |
| 22402 | SESA-READING |
| 24400 | STANDARD READING INVENTORY |
| 15100 | STANFORD ACHIEVEMENT TEST |
| 15101 | SAT-LANGUAGE |
| 15102 | SAT-MATH APPLICATION |
| 15103 | SAT-MATH COMPREHENSION |
| 15104 | SAT-READING COMPREHENSION |
| 15105 | SAT-WORD READING |
| 15106 | SAT-PARAGRAPH MEANING |
| 15107 | SAT-VOCABULARY |
| 15108 | SAT-SPELLING |
| 15109 | SAT-WORD STUDY SKILLS |
| 15110 | SAT-ARITHMETIC |
| 15111 | SAT-WORD MEANING |
| 15112 | SAT-SCI AND SOC STUD CONCEPT |
| 15113 | SAT-MATH COMPUTATION |
| 15114 | SAT-MATH CONCEPTS |
| 15115 | SAT-MATH APPLICATION |
| 15116 | SAT-SOCIAL STUDIES |
| 15117 | SAT-SCIENCE |
| 15118 | SAT-TOTAL AUDITORY |
| 15119 | SAT-LISTENING COMPREHENSION |
| 15120 | SAT-MATH TOTAL |

## TEST CODES TABLE

| | |
|---|---|
| 15121 | SAT-READING TOTAL |
| 27900 | STANFORD DIAGNOSTIC ARITH TST |
| 15300 | STANFORD DIAGNOSTIC READING |
| 29000 | STANFORD READING TST 1973 |
| 29001 | SRT-VOCABULARY 1973 |
| 29002 | SRT-READING COMP 1973 |
| 29003 | SRT-WORD STUDY SKILLS 1973 |
| 23300 | STANFORD TEST OF ACA SKILLS |
| 23301 | STAS-READING |
| 23302 | STAS-ENGLISH |
| 23303 | STAS-MATH |
| 15400 | STANFORD TEST OF READING |
| 15401 | STR-WORD RECOGNITION |
| 15402 | STR-PARAGRAPH MEANING |
| 15403 | STR-VOCABULARY |
| 15404 | STR-STUDY SKILLS |
| 15405 | STR-WORD MEANING |
| 15200 | STANFORD-BENET |
| 15500 | STAR READINESS |
| 31800 | SUCHER-ALLRED ORAL READING |
| 29300 | SULLIVAN MATH |
| 29400 | SULLIVAN MATH PLACEMENT |
| 15700 | SULLIVAN PLACEMENT |
| 15600 | SULLIVAN READING |
| 22900 | SYSTEM 80 TEST |
| 26900 | TEACHER INFORMAL TEST |
| 26901 | TITST-READING |
| 26902 | TITST-MATH |
| 15800 | TEACHER MADE TEST |
| 15801 | TMT-SPELLING |
| 15802 | TMT-READING |
| 15803 | TMT-MATH |
| 37600 | TEMPLIN DARLEY TST ARTIC TDTA |
| 22000 | TEST OF ACADEMIC PROGRESS |
| 22001 | TAP-MATH |
| 22002 | TAP-READING |
| 31000 | TEST OF ACH BASIC SKILLS MATH |
| 19200 | TEST OF BASIC EXPERIENCE |
| 19201 | TOBE-LANGUAGE |
| 19202 | TOBE-MATH |
| 19203 | TOBE-SOCIAL STUDIES |
| 19204 | TOBE-SCIENCE |
| 19205 | TOBE-GENERAL CONCEPTS |
| 19206 | TOBE-LANGUAGE/SPANISH |
| 19207 | TOBE-MATH/SPANISH |
| 26700 | TEST OF GEN ABILITY ENGLISH |
| 26800 | TEST OF GEN ABILITY SPANISH |
| 23900 | TEST OF GENERAL ABILITY |
| 15900 | TESTS OF BASIC LANG ABILITY |
| 16000 | TESTS OF BASIC MATH ABILITY |
| 18600 | TEXAS ORAL LANGUAGE POST TEST |
| 29700 | THE BOYD TEST |
| 28400 | THORNDIKE HAGEN COG ABIL TST |
| 16100 | THORPE DEVELOPMENTAL INVENTORY |
| 16200 | TIAT READING |
| 23200 | UPWARD BOUND-LEARNING |
| 16300 | VANE |
| 32300 | VINELAND SOCIAL MATURITY SCALE |
| 32600 | VIS MTR INTEGRATION TEST(VMI) |
| 16400 | WALKER READ-DISADV PRSCH CHILD |
| 16500 | WALKER READING TEST |
| 16600 | WEEKLY READER DIAGNOSTIC TEST |
| 16700 | WEEKLY READER READING INVENT |
| 16800 | WEPMAN |
| 16900 | WEPMAN TST OF AUDITORY DISCRIM |
| 17100 | WIDE RANGE ACHIEVEMENT TEST |
| 17101 | WRAT-READING |
| 17102 | WRAT-SPELLING |
| 17103 | WRAT-MATH |
| 17104 | WRAT-LANGUAGE |
| 20400 | WINTERHAVEN PERCEPTUAL |
| 18700 | WISC |
| 18701 | W-VERBAL SCALE |
| 18702 | W-PERFORMANCE SCALE |
| 17400 | WISCONSIN DESIGN TEST |
| 36800 | WISCONSIN DEVELOPMENT INV |
| 36801 | WDI-MOTOR |
| 36802 | WDI-AUDITORY |
| 36803 | WDI-VISUAL |
| 36804 | WDI-VERBAL |
| 17000 | WISCONSIN READING SKILLS DEV |
| 17001 | WRSD-WORD ATTACK SKILLS |
| 17002 | WRSD-STUDY SKILLS |
| 31100 | WOODCOCK READING MASTERY TEST |
| 31101 | WRMT-LETTER IDENTIFICATION |
| 31102 | WRMT-WORD IDENTIFICATION |
| 31103 | WRMT-WORD ATTACK |
| 31104 | WRMT-WORD COMPREHENSION |
| 31105 | WRMT-PASSAGE COMPREHENSION |
| 17200 | ZIP SCALE |
| 17201 | ZS-ENGLISH LANGUAGE FACILITY |
| 17202 | ZS-WORD RECOG RDG PLACEMENT |
| 17203 | ZS-RDG PLACEMENT COMPREHENSI |
| 17204 | ZS-WORD OPPOSITES |
| 17205 | ZS-MATHEMATICS |

## TEST CODES TABLE

| CODE | CRITERION PROGRAMS |
|---|---|
| 53500 | BALDRIDGE CRITERION REFERENCE |
| 53900 | CARROW AUDITORY COMPREHENSION |
| 54000 | CARROW SCREENING AND COMP |
| 54500 | DEVELOPING MATH PROCESSES |
| 54600 | DIAGNOSIS INST AID LVLA P2 SRA |
| 54601 | DIA-ADDITION |
| 54602 | DIA-SUBTACTION |
| 54603 | DIA-MULTIPLICATION |
| 54604 | DIA-DIVISION |
| 54605 | DIA-SETS |
| 54606 | DIA-CARDINAL NUMBER |
| 54607 | DIA-ORDER |
| 54608 | DIA-PLACE VALUE |
| 54609 | DIA-FRACTIONS |
| 54610 | DIA-ADDITION CONCEPTS |
| 54611 | DIA-SUBTRACTION CONCEPTS |
| 54612 | DIA-MULTIPLICATION CONCEPTS |
| 54613 | DIA-DIVISION CONCEPTS |
| 54614 | DIA-NUMBER SENTENCES |
| 54615 | DIA-PROBLEM SOLVING |
| 54700 | DIAGNOSIS INST AID LVLB SRA |
| 54701 | DIA-ADDITION WHOLE NUMBERS |
| 54702 | DIA-SUBTRACTION WHOLE NUMBER |
| 54703 | DIA-MULTPLICATION WHOLE NUMB |
| 54704 | DIA-DIVISION WHOLE NUMBER |
| 54705 | DIA-ADDITION FRACTION MIX NU |
| 54706 | DIA-SUBTRACT FRACTION MIX NU |
| 54707 | DIA-MULTIPLY FRACTION MIX NU |
| 54708 | DIA-DIVISION FRACTION MIX NU |
| 54709 | DIA-ADDITION DECIMALS |
| 54710 | DIA-SUBTRACTION DECIMALS |
| 54711 | DIA-MULTIPLICATION DECIMALS |
| 54712 | DIA-DIVISION DECIMALS |
| 55200 | DIAGNOSIS INST AID RDG LVL A |
| 55201 | DIAR-PHONETIC ANALYSIS |
| 55202 | DIAR-STRUCTURAL ANALYSIS |
| 55203 | DIAR-COMPREHENSION |
| 55204 | DIAR-VOCABULARY |
| 55205 | DIAR-USE OF SOURCES |
| 55300 | DIAGNOSIS INST AID RDG LVL B |
| 55301 | DIAR-PHONETIC ANALYSIS |
| 55302 | DIAR-STRUCTURAL ANALYSIS |
| 55303 | DIAR-COMPREHENSION |
| 55304 | DIAR-VOCABULARY |
| 55305 | DIAR-USE OF SOURCES |
| 56400 | EPIC CRIT. REF TEST |
| 56401 | EPIC-TEST 1 |
| 56402 | EPIC-TEST 2 |
| 56403 | EPIC-TEST 3 |
| 56404 | EPIC-TEST 4 |
| 56405 | EPIC-TEST 5 |
| 56406 | EPIC-TEST 6 |
| 56407 | EPIC-TEST 7 |
| 50100 | FLORIDA CRITERION READING |
| 50101 | FCR-SENSORIMOTOR-SKILLS |
| 50102 | FCR-VISUAL-MOTOR |
| 50103 | FCR-AUDITORY-MOTOR |
| 50104 | FCR-PHONOLOGY SKILLS |
| 50105 | FCR-STRUCTURAL ANALYSIS |
| 50106 | FCR-VERBAL INFORMATION |
| 50107 | FCR-SYNTAX SKILLS |
| 50108 | FCR-COMPREHENSION SKILLS |
| 50109 | FCR-HIGH INTENSITY WORD ANAL |
| 50110 | FCR-HIGH INTENSITY VOCABULAR |
| 50111 | FCR-HIGH INTENSITY COMPREHEN |
| 50112 | FCR-HIGH INTENSITY WORD STUD |
| 50200 | FLORIDA LEARN AND EARN |
| 50201 | FLE-SMALL ENGINE |
| 50202 | FLE-MARINE ENGINE |
| 50203 | FLE-AUTO TUNE-UP |
| 50204 | FLE-TOUCH TYPING COURSE |
| 50205 | FLE-PERSONAL GROOMING PROG |
| 50206 | FLE-SUPERMARKETING |
| 50207 | FLE-WORLD OF WORK |
| 50208 | FLE-MOD CONSUMER ED PROG |
| 50209 | FLE-NURSES AIDE |
| 55900 | IND CRITERION REF TSTS-ICRT |
| 55901 | ICRT-READING |
| 55902 | ICRT-MATH |
| 54200 | INDIVIDUAL MATH SYSTEM |
| 54201 | IMS-NUMERATION |
| 54202 | IMS-ADDITION |
| 54203 | IMS-SUBTRACTION |
| 54204 | IMS-MULTIPLICATION |
| 54205 | IMS-DIVISION |
| 54206 | IMS-FRACTIONS |
| 54207 | IMS-APPLICATIONS |
| 54208 | IMS-MONEY |
| 54209 | IMS-TIME |
| 54210 | IMS-MEASUREMENT |
| 54211 | IMS-GEOMETRY |
| 55600 | INDIVIDUALLY PRESC INST MATH |
| 55601 | IPI-NUMERATION/PLACE VALUE |
| 55602 | IPI-ADDITION/SUBTRACTION |
| 55603 | IPI-MULTIPLICATION |
| 55604 | IPI-DIVISION |
| 55605 | IPI-FRACTIONS |
| 55606 | IPI-MONEY |
| 55607 | IPI-TIME |
| 55608 | IPI-SYSTEMS OF MEASUREMENT |

# TEST CODES TABLE

| | |
|---|---|
| 55609 | IPI-GEOMETRY |
| 55610 | IPI-APPLICATIONS |
| 55700 | INDIVIDUALLY PRESC INST RDG |
| 55701 | IPI-STRUCTURAL ANALYSIS |
| 55702 | IPI-VOCABULARY DEVELOPMENT |
| 55703 | IPI-LITERAL COMPREHENSION |
| 55704 | IPI-INTERPRETIVE COMP |
| 55705 | IPI-EVALUATIVE COMPREHENSION |
| 55706 | IPI-LIBRARY SKILLS |
| 55707 | IPI-REFERENCE SKILLS |
| 55708 | IPI-ORGNAIZATIONAL SKILLS |
| 55400 | KEY MATH DIAG TEST-ARITH |
| 55401 | KMDTA-NUMERATIONS |
| 55402 | KMDTA-FRACTIONS |
| 55403 | KMDTA-GEOMETRY-SYMBOLS |
| 55404 | KMDTA-ADDITION |
| 55405 | KMDTA-SUBTRACTION |
| 55406 | KMDTA-MULTIPLICATION |
| 55407 | KMDTA-DIVISION |
| 55408 | KMDTA-MENTAL COMPUTATION |
| 55409 | KMDTA-NUMERIC REASONING |
| 55410 | KMDTA-WORD PROBLEMS |
| 53411 | KMDTA-MISSING ELEMENTS |
| 55412 | KMDTA-MONEY |
| 55413 | KMDTA-MEASUREMENT |
| 55414 | KMDTA-TIME |
| 54900 | MASS READING SKILLS INVENTORY |
| 54901 | MRSI-VIS PERCP MOTOR SKILLS |
| 54902 | MRSI-LIS ORAL LANG SKILLS |
| 54903 | MRSI-READINESS SKILLS |
| 54904 | MRSI-PHONICS SKILLS |
| 54905 | MRSI-STRUCT ANALYSIS SKILLS |
| 54906 | MRSI-DICTIONARY |
| 54800 | MASS SURVEY MATHEMATICS SKILLS |
| 56300 | MICH PRE-SCHOOL SKILL LIST |
| 51100 | NEB CRITERION-MATH |
| 51000 | NEB PROJECT INSTRUCT-RDG |
| 50300 | NEW YORK LEARN AND EARN |
| 50301 | NYLE-AGRI-BUS-NATURAL RES |
| 50302 | NYLE-BUSINESS AND OFFICE |
| 50303 | NYLE-COMMUNICATION-MEDIA |
| 50304 | NYLE-CONSTRUCTION |
| 50305 | NYLE-CONSUMER-HOMEMAKER ED |
| 50306 | NYLE-ENVIRONMENT |
| 50307 | NYLE-FINE ARTS-HUMANITIES |
| 50308 | NYLE-HEALTH |
| 50309 | NYLE-HOSPITALITY-RECREATION |
| 50310 | NYLE-MANUFACTURING |
| 50311 | NYLE-MARINE SCIENCE |
| 50312 | NYLE-MARKETING-DISTRIBUTION |
| 50313 | NYLE-PERSONAL SERVICES |
| 50314 | NYLE-PUBLIC SERVICES |
| 50315 | NYLE-TRANSPORTATION |
| 50316 | NYLE-COUNSELING |
| 56200 | PENNSYLVANIA RDG ASSESS ENG |
| 56100 | PENNSYLVANIA RDG ASSESS SPAN |
| 55500 | PERCEPTUAL SKILL CURRICULUM |
| 55501 | PSC-VISUAL MOTOR SKILLS |
| 55502 | PSC-AUDITORY MOTOR SKILLS |
| 55503 | PSC-GENERAL MOTOR SKILLS |
| 55504 | PSC-LETTERS AND NUMERALS |
| 52000 | PIRAMID CRITERION-MATH |
| 51500 | PIRAMID CRITERION-READING |
| 52500 | PIRAMID READING SPANISH |
| 54300 | POWER READING |
| 54301 | PR-WORD RECOGNITION |
| 54302 | PR-COMPREHENSION |
| 54303 | PR-STUDY SKILLS |
| 54400 | PRE-READING SKILLS PROGRAM |
| 54401 | PRSP-VISUAL |
| 54402 | PRSP-SOUND |
| 56600 | PRESCRIPTIVE RDG INV CTB |
| 56601 | PRI-RECOG |
| 56602 | PRI-PHONIC ANALYSIS |
| 56603 | PRI-STRUCTURAL ANALYSIS |
| 56604 | PRI-TRANSLATION |
| 56605 | PRI-LITERAL COMPREHENSION |
| 56606 | PRI-INTERPRETIVE COMP |
| 56607 | PRI-CRITICAL COMP |
| 56500 | SILVER BURDETT MATH SYSTEM |
| 56501 | SBMS-OPERATIONS |
| 56502 | SBMS-SETS |
| 56503 | SBMS-SENTENCES |
| 56504 | SBMS-GEOMETRY |
| 56505 | SBMS-RELATIONS |
| 56506 | SBMS-PROBABILITY |
| 55000 | STANFORD DIAG ARITH TEST LVL 1 |
| 55001 | SDAT-CONCEPTS NUMBERS NUMERA |
| 55002 | SDAT-COMPUTATION |
| 55003 | SDAT-NUMBER FACTS |
| 55100 | STANDFORD DIAG ARITH TST LVL II |
| 55101 | SDAT-CONCEPTS NUMBERS NUMERA |
| 55102 | SDAT-COMPUTATION WHOLE NUMBE |
| 55103 | SDAT-COMMON FRACTIONS |
| 55104 | SDAT-DECIMAL FRACTIONS PERCE |
| 55105 | SDAT-NUMBER FACTS |
| 55800 | TX CAREER ED MEAS SURVEY-CEMS |
| 54100 | UTAH TST LANGUAGE DEVELOPMENT |
| 56000 | WISCONSIN DESIGN RDG SKILLS DE |
| 56001 | WDRSD-WORD ATTACK |
| 56002 | WDRSD-STUDY SKILLS |
| 56003 | WDRSD-COMPREHENSION |

## MSRTS QUARTERLY UPDATE

### TEST CODES TABLE

| CODE | STANDARDIZED TESTS |
|---|---|
| 15301 | SDRT-COMPREHENSION |
| 15302 | SDRT-VOCABULARY |
| 15303 | SDRT-DECODING |
| 15304 | SDRT-RATE |
| 15305 | SDRT-SYLLABICATION |
| 15306 | SDRT-BEG AND ENDING SOUNDS |
| 15307 | SDRT-BLENDING |
| 15308 | SDRT-SOUND DISCRIMINATION |
| 15309 | SDRT-AUDITORY DISCRIMINATION |
| 17105 | WRAT-WORD RECOGNITION |
| 22501 | MEA-READING |
| 22502 | MEA-MATH |
| 28001 | HMRI-PHONICS |
| 32401 | IORSE-AUD MEM SEQUENTIAL |
| 32402 | IORSE-WORK DISCRIMINATION |
| 32403 | IORSE-TOTAL AUD PERCEPT SKIL |
| 32404 | IORSE-BODY AWARENESS |
| 32405 | IORSE-LOC DIRECTION CONCEPTS |
| 32406 | IORSE-COLOR DISCRIMINATION |
| 32407 | IORSE-VIS MOTOR COORD |
| 32408 | IORSE-VIS PERCEPTION LETTERS |
| 32409 | IORSE-LETTER NAMES |
| 32410 | IORSE-TOTAL VIS MOTOR SKILLS |
| 35805 | OST-READING |
| 36004 | IPMS-MATHEMATICS |
| 39300 | PLEASANTVILLE BILINGUAL ASSESS |
| 39301 | PBA-ORAL COMP |
| 39302 | PBA-SPEAKING |
| 39303 | PBA-READING |
| 39304 | PBA-WRITING |
| 39400 | OHIO WORD RECOGNITION TEST |
| 39401 | OWRT-INDEPENDENT LEVEL |
| 39402 | OWRT-INSTRUCTURAL LEVEL |
| 39403 | OWRT-INST WITH DIFFICULTY |
| 39404 | OWRT-FRUSTRATION LEVEL |
| 39500 | PRE-K/K CHECKLIST |
| 39501 | PKC-MOTOR SKILLS |
| 39502 | PKC-VISUAL MEMORY SKILLS |
| 39600 | COOPERSMITH SELF ESTEEM INV |
| 39700 | DALE LIST OF EASY WORDS |

| CODE | STANDARDIZED TESTS |
|---|---|
| 39800 | PRIMARY ACQUISITION OF LANGUAG |
| 39801 | PAL-ENGLISH |
| 39802 | PAL-SPANISH |
| 39900 | WIDE RANGE ACH TEST-SPANISH |
| 39901 | WRATSP-READING-SPANISH |
| 39902 | WRATSP-MATH-SPANISH |
| 39903 | WRATSP-SPELLING-SPANISH |
| 40000 | BETTS WORD RECOGNITION TEST |
| 40100 | MARYLAND FUNCTIONAL READING TE |
| 40101 | MFRT-LOCATING INFORMATION |
| 40102 | MFRT-UNDERSTANDING FORM |
| 40103 | MFRT-GAINING INFORMATION |
| 40204 | MFRT-FOLLOWING DIRECTION |
| 40200 | GOUDEY INFORMAL RDG INVENTORY |
| 40201 | GIRI-WORD RECOGNITION |
| 40202 | GIRI-COMPREHENSION |
| 40203 | GIRI-ESTIMATION LEVEL |
| 40204 | GIRI-INDEPENDENT LEVEL |
| 40205 | GIRI-INSTRUCTIONAL LEVEL |
| 40206 | GIRI-FRUSTRATION LEVEL |
| 40207 | GIRI-CAPACITY LEVEL |

MSRTS QUARTERLY UPDATE

TEST CODES TABLE

| CODE | CRITERION PROGRAMS |
|---|---|
| 57600 | CRITERION REF ASSESSMNT PRERDG |
| 57601 | CAP-CLASSIFICATION |
| 57602 | CAP-COMP OF LETTERS |
| 57603 | CAP-ORDER OF LETTERS |
| 57604 | CAP-MATCHING LETTERS |
| 57605 | CAP-REC OF DIFFERENT LETTERS |
| 57606 | CAP-VOC OF HOME ELEMENTS |
| 57607 | CAP-VOC OF NEIGHBORHOOD ELEM |
| 56708 | CAP-LETTER RECOGNITION |
| 56709 | CAP-DICTATED LETTERS |
| 56710 | CAP-INITIAL SOUNDS |
| 56711 | CAP-REC OF SAME WORD |
| 56712 | CAP-NURSERY RHYMES |
| 56713 | CAP-REPEAT STORY |
| 57700 | CRITERION REF ASSESSMENT LVL I |
| 57701 | CALI-BEGINNING SOUNDS |
| 57702 | CALI-BEG SOUNDS TO PICT |
| 57703 | CALI-ENDING SOUNDS |
| 57704 | CALI-POS OF CONS SOUNDS |
| 57705 | CALI-AUD VOWEL SOUNDS |
| 57706 | CALI-SUBS OF INITIAL SOUNDS |
| 57800 | CRITERION REF ASSESSMT LVL II |
| 57801 | CALII-SUBS INITIAL SOUNDS |
| 57802 | CALII-BEG MID CONS SOUND |
| 57803 | CALII-BEG BLENDS DIAGRAPHS |
| 57804 | CALII-BEG BLENDS DIAG SUBS |
| 57805 | CALII-END BLENDS DIAGRAPHS |
| 57806 | CALII-LONG SHORT VOWELS |
| 57807 | CALII-SIMPLE ENDINGS |
| 57808 | CALII-ROOT WORDS |
| 57809 | CALII-COMPOUND WORDS |
| 57810 | CALII-CONTRACTIONS |
| 57900 | CRITERION REF ASSESSMT LVL III |
| 57901 | CALIII-VOWELS LONG SHORT |
| 57902 | CALIII-VOWELS DIAGRAPHS |
| 57903 | CALIII-HEARS VOWELS |
| 57904 | CALIII-BEG BLENDS DIAGRAPHS |
| 57905 | CALIII-END BLENDS DIAGRAPHS |
| 57906 | CALIII-Y VOWEL SOUND |
| 57907 | CALIII-RECO PREFIXES SUFFIXE |
| 57908 | CALIII-USE PREFIXES SUFFIXES |
| 57909 | CALIII-NUMBER OF SYLLABLES |
| 57910 | CALIII-COMPLEX ENDING |
| 58000 | CRITERION REF ASSESSMNT LVL IV |
| 58001 | CALIV-VOWEL RULES |
| 58002 | CALIV-VOWEL RULE APPLIC |
| 58003 | CALIV-VOWEL IN DICT WORD |
| 58004 | CALIV-SILENT LETTERS |
| 58005 | CALIV-RULES SOUNDS C |
| 58006 | CALIV-RULES SOUNDS G |
| 58007 | CALIV-VOWEL RULE SYLLABLES |
| 58008 | CALIV-DIVIDING SYLLABLES |
| 58009 | CALIV-SUFFIXES VERBS |
| 58010 | CALIV-SUFFIXES NOUN |
| 58011 | CALIV-COMPLEX ENDINGS |
| 58012 | CALIV-SOUNDS ED |
| 58013 | CALIV-CONTRACTIONS |
| 58014 | CALIV-ORAL PH-16 |
| 58015 | CALIV-ORAL SA-9 |
| 58100 | CRITERION REF ASSESSMNT DICT |
| 58101 | CAD-ALPHA ORDER |
| 58102 | CAD-ALPHA FIRST LETTER |
| 58103 | CAD-ALPHA SEC THIRD LET |
| 58104 | CAD-GUIDE WORDS |
| 58105 | CAD-CONTENT MEANING |
| 58200 | ORAL LANGUAGE CONTINUUM |
| 58201 | OLC-SPEAKING SKILLS |
| 58202 | OLC-READING SKILLS |
| 58203 | OLC-LISTENING SKILLS |
| 58300 | CRIT REF ED ASSOC EVAL CREATE |
| 58301 | CREATE-PRE SCHOOL SKILL LIST |
| 58302 | CREATE-MATH |
| 58303 | CREATE-ORAL LANGUAGE |
| 58304 | CREATE-READING |

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## PERIODIC ENROLLMENT VALIDATION REPORT (PEVR)

The Periodic Enrollment Validation Report (PEVR) is a computer print-out from the Data Base in Little Rock. As the name indicates, it is a student validation check on all migrant students enrolled on the MSRTS in each local educational agency. The PEVR is produced quarterly (November, February, May and August), and its purpose is to provide for each state a complete list of all current migrant students by school. These students are listed alphabetically by name.

The PEVR report was developed to provide each State with student data to be verified by the projects. Consequently, the PEVR should be studied intently at the LEA level. It should be used by LEA project personnel to check against students actually enrolled by their schools.

A second use of the PEVR is to determine how efficiently the LEA's are submitting their student enrollment data to the terminal operator at the Northeast Regional Center. Missing items on the report are clear indications that the record clerk has failed to submit information, or that the terminal operator has omitted information when transmitting student data to Little Rock.

Some other functions of the PEVR are as follows:

1. It provides the names of students enrolled in a school.
2. It provides an indication of promptness in enrolling and withdrawing students.
3. It provides enrollment and withdrawal patterns during a certain period.
4. It helps in planning and implementing programs.
5. It gives an indication of the length the enrollment period in a given period.
6. It aids in checking for duplicate records on a child, or duplicate enrollments in different schools.
7. It indicates the number of children between the ages of 5 and 17 that are counted for funding purposes.

Any discrepancies noted on the PEVR should be investigated by the LEA record clerk. Corrections should be made and these corrections should be forwarded to the terminal operator immediately. Common discrepancies include:

1. School shows more enrollments than the PEVR -- these additional enrollments should be sent to the terminal operator.
2. PEVR shows more enrollments than the school -- the erroneous enrollments should be deleted and the student record updated.

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# INTER/INTRA-STATE STUDENT ENROLLMENT MONITORING SYSTEM (ISEMS)

The Inter/Intra-State Student Enrollment Monitoring System (ISEMS) is a periodic print-out from the Data Bank in Little Rock. The report's real intent is to help States in their recruitment of migrant children. The effectiveness of this report is dependent upon the completeness with which transfer record personnel in LEA projects fill in this "tracking" information.

The purposes of the ISEMS report is to identify those children who:

1. Have never been served in their home base states.
2. Have been served in their home base state but not within the last twelve months.
3. Have been served within their home base state within the last twelve months but not within their home base city.
4. Do not have complete home base city/state information and a determination cannot be made concerning service in their home base state.

The four above-mentioned categories are reported to the State Migrant Education Section on a periodic basis. Each ISEMS report may contain listings for any or all of the four categories. The ISEMS headings are numbered to correspond to the following definitions -- referred to as Sections.

Section One, Two and Three are applicable to those migrant students whose transfer records contain both the home base city and state. Section Four is applicable to those students whose records do not contain all the home base city and state information.

Section One summarizes, in alphabetical sequence, those students who have not been enrolled in a North Carolina migrant project but who have been enrolled in a migrant project in another state.

Section Two summarizes, in alphabetical sequence, those students whose enrollment history indicates an enrollment in North Carolina, but not within the last twelve months.

Section Three summarizes, in alphabetical sequence, those students who have been served in a school in North Carolina within the last twelve months but have not been enrolled in a migrant project in their home base city. Section Three differs from Sections One and Two in that the most recently reported school is within the home base state.

Section Four summarizes, by alphabetical sequence, those students whose home base city or state is not indicated on their record. A list of these students is sent to the State Director in the state in which the most recently attended school is located.

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In addition to aiding the State in its recruitment efforts, the ISEMS report can also help in developing continuity of children's academic programs once they have been enrolled. It can also help the LEAs in determining if there is a need for new programs of study.

# STATE MIGRANT PARENT ADVISORY COMMITTEE

## CONSTITUTION AND BY-LAWS

### Preamble

Public Law 93-380 and HEW guidelines require that the State Educational Agency give consideration to the views of migrant parents in planning the State migrant education program.

Section 116d.37 of the regulations for migrant education programs states:

The State Educational Agency's application shall demonstrate that:

(a) the State Educational Agency has (to the extent feasible) consulted with the parents of children to be served or who are being served, and considered the views of such parents with respect to the planning of the State program and:

(b) one or more advisory councils will be established in the State composed of parents of children to be served or who are being served and of other persons knowledgeable of the needs of migratory children, and that such council(s) will be consulted and their views considered concerning the operation and evaluation of the present State program and local projects and the planning of future programs and projects.
(20 U.S.C. 241c-2(a)(1), (C), 241e(a)(8), 1231(d)

In keeping with the mandate, the State Migrant Education Office has organized a State Migrant Parent Advisory Committee to consider parents' views with respect to the planning of the State programs.

### ARTICLE I

### Name

The name of this organization shall be The North Carolina Migrant Education State Parent Advisory Committee.

### ARTICLE II

### Purposes

Section 1 Keep members of the local migrant parent councils informed about changes in Federal and State regulations pertaining to the operation of the migrant program.

Section 2 Recommend to the State Migrant Education office special programs to meet the needs of the migrant children.

Section 3 Provide for parent and community participation in the Title I Migrant Education Program at the state and local levels.

Section 4 Suggest activities that can improve the overall operation of the State Migrant Education Program.

Section 5 Suggest activities that can be used as a guide for local parent advisory councils.

## ARTICLE III

### Objectives

Section 1 Migrant parents will understand better the educational role of the home.

Section 2 Migrant parents will give more attention to their children's learning.

Section 3 Migrant parents will be better informed about educational resources and services available to them.

Section 4 Migrant parents will become involved in identifying ways to help their children achieve academically and socially.

Section 5 Migrant parents will have opportunities to interact with other parents concerning mutual interests and needs.

## ARTICLE IV

### Functions

Section 1 The Committee shall make recommendations concerning the needs of the migrant students.

Section 2 The Committee shall collect and disseminate information on resources available to meet the needs of the migrant population.

Section 3 The Committee may sponsor and conduct workshops and other meetings to help local migrant councils better understand their role and responsibilities.

Section 4 The Committee shall present a unified front in support of educational programs for migrant children.

## ARTICLE V

## Membership

Section 1 Regular membership in the North Carolina Migrant Education State Parent Advisory Committee shall be composed of one representative from each local Migrant Parent Advisory Committee.

Section 2 Associate membership in this organization is open to the state migrant education staff and members of local migrant councils.

Section 3 Voting in the organization will be limited to Parent Advisory Committee representatives in the regular membership.

## ARTIVLE VI

## Officers

Section 1 The officers in this organization shall consist of the following:

a. one chairperson

b. one vice chairperson

c. one secretary/treasurer

Section 2 The officers shall be elected at the fall meeting of the organization.

## ARTICLE VII

## Committees

Section 1 The executive committee shall be composed of officers and the State Director of the Migrant Education Program.

Section 2 The chairperson shall appoint all standing and special committees.

Section 3 The executive committee shall determine the time, place and other details relating to meetings of the committee.

## ARTICLE VIII

## Quorum and Rules of Order

Section 1 A simple majority of regular members shall constitute a quorum.

Section 2 Robert's Rules of Order, as modified, shall be used as a guide in determining the responsibilities of the officers and the conduct of business.

## ARTICLE IX

## Amendments

Section 1 Any member of the Committee may propose amendments to the constitution.

Section 2 Amendments must be presented to the membership at least one meeting in advance of the meeting in which action on the proposed amendment is taken.

Section 3 A two-thirds majority of the voting members shall be necessary to amend the constitution.

# HOW TO USE THE ASSESSMENT GUIDE

Use of the self-assessment guide is optional with the local project directors. For those local project directors who choose to take advantage of the management tool, a self-assessment instrument and a self-assessment profile is included at the end of this section. The local project director is encouraged to duplicate as many copies of the self-assessment instrument as are necessary in order to meet the demands of the assessment procedures in the local project.

The self-assessment instrument should be completed by entering the program component being assessed, the date of the assessment and the name of the person responsible for the assessment. In the first column, enter the number of the activity as indicated on the assessment guide. In column two circle the numeral which most accurately describes the performance of the activity in question. Note the following codes to be used in assessing performance:

1 = Not applicable or does not apply
2 = Unsatisfactory - no effort or performance observed
3 = Partially met - needs more attention or effort
4 = Substantially met - some improvement possible
5 = Fully met - meets all criteria and performance standards

In columns three and four enter any information relating to needs or problems observed and any recommendations for meeting these needs or eliminating the problems.

Use as many lines on the self-assessment guide as necessary to assess performance of each appropriate activity.

Enter the sum of the circled numberals in the space provided. Divide the sum of the performance ratings by the number of activities assessed in the program component and enter the average performance for the program component in the space provided. Also enter the average performance for each program component on the self-assessment profile for further reference and comparisons.

PROGRAM COMPONENT I: Identification and Recruitment

- Establishment of procedures to identify eligible migrant children
- Development of documentation instruments for use in the identification of eligible children
- Utilization of all available means to identify eligible children

| FEDERAL ACTIVITIES | STATE ACTIVITIES | LOCAL ACTIVITIES |
|---|---|---|
| I-F-1<br>Establishes minimum criteria for eligibility for migrant students and requirements for documentation<br>116d.2; 116d.12 | I-S-1<br>Establishes criteria and procedures for determining eligibility for migrant students<br>116d.2 | I-L-1<br>Establishes eligibility of migrant children<br>116d.35; 100b.477 |
| | | I-L-2<br>Documents number of eligible migrant children<br>116d.35; 100b.477 |
| | | I-L-3<br>Maintains required documentation of eligibility<br>116d.35; 100b.477 |
| | | I-L-4<br>Secures parental signatures for 5-year migrants |
| | | I-L-5<br>Completes eligibility form for all migrant children |
| I-F-6<br>Provides program support package on the identification and recruitment of eligible migrant children<br>116.4 | I-S-6<br>Develops identification forms for certification of migrant status of children<br>116.36 | I-L-6<br>Maintains eligibility forms including those for obtaining parental consent where applicable |

Citations from the Elementary and Secondary Education Act include Sections 121, 122, 142 and 151.
Citations from the General Education Provisions Act include Sections 422, 423, 426 and 438.
Citations from the General Provisions for Programs are from Part 100b.
Citations from the Regulations for ESEA Title I are from Parts 116 and 116d.

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PROGRAM COMPONENT I: Identification and Recruitment (continued)
- Establishment of procedures to identify eligible migrant children
- Development of documentation instruments for use in the identification of eligible children
- Utilization of all available means to identify eligible children

| FEDERAL ACTIVITIES | STATE ACTIVITIES | LOCAL ACTIVITIES |
|---|---|---|
| I-F-7<br>Provides technical assistance to SEAs on identification and recruitment activities<br>Sec. 426(a); 116.4; 100b.436 | I-S-7<br>Provides technical assistance and trains LEA personnel in developing methods of identification and recruitment of migrant children<br>116.4 | I-L-7<br>Implements procedures for working with the SEA in utilizing technical assistance and provides adequate personnel for the identification and recruitment |
| I-F-8<br>Provides inter-intrastate student enrollment monitoring system (ISEMS) information to SEA | I-S-8<br>Provides inter/intrastate student enrollment monitoring system (ISEMS) information and interpretation to local personnel as one means of identifying and recruiting children<br>116d.10; 116d.39 | I-L-8<br>Uses ISEMS information to identify eligible migrant children |
| I-F-9<br>Encourages coordination of programs involved in identification of and service to migrant children<br>116.41 | I-S-9<br>Encourages cooperation among interstate and intrastate service agencies in identifying and recruiting eligible children<br>116d.39(d) | I-L-9<br>Maintains coordination with local and intrastate agencies in identifying and recruiting eligible children |
| I-F-10<br>Conducts periodic validation of SEA identification methods and results<br>100b.436 | I-S-10<br>Conducts periodic validation studies of LEA identification and recruitment procedures<br>100b.431 | I-L-10<br>Periodically validates identification and recruitment procedures |

Citations from the Elementary and Secondary Education Act include Sections 121, 122, 142 and 151.
Citations from the General Education Provisions Act include Sections 422, 423, 426 and 438.
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Citations from the Regulations for ESEA Title I are from Parts 116 and 116d.

PROGRAM COMPONENT I: Identification and Recruitment (continued)

. Establishment of procedures to identify eligible migrant children
. Development of documentation instruments for use in the identification of eligible children
. Utilization of all available means to identify eligible children

| FEDERAL ACTIVITIES | STATE ACTIVITIES | LOCAL ACTIVITIES |
|---|---|---|
| | | I-L-11<br>Uses individual migrant student records to assist in identification of migrant children |
| | I-S-12<br>Maintains liaison with State Advisory Committee on Services to Migrants | I-L-12<br>Maintains liaison with MSFA |
| | I-S-13<br>Determines locations of concentration of migrant children | I-L-13<br>Conducts school surveys to identify eligible children |
| I-F-14<br>Provides periodic enrollment validation report (PEVR) to assist in identification of eligible migrant children | I-S-14<br>Uses PEVR to validate identification and recruitment of migrant children | I-L-14<br>Uses PEVR to validate identification and recruitment of migrant children |
| I-F-15<br>Assumes prime responsibility for determining the estimated number of eligible children as identified in MSRTS<br>116.17; 116d.21; 116d.39 | I-S-15<br>Maintains procedures for keeping LEAs informed of current and new legislation regarding migrant eligibility criteria<br>116d.31 | I-L-15<br>Implements procedures to insure that program staff are informed of changes in eligibility and other legislative provisions |

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Citations from the General Education Provisions Act include Sections 422, 423, 426 and 438.
Citations from the General Provisions for Programs are from Part 100b.
Citations from the Regulations for ESEA Title I are from Parts 116 and 116d.

PROGRAM COMPONENT II: Program development

- Develops and implements program design and performance objectives based upon needs assessment
- Conducts needs assessment and implements guidelines for program development
- Manages information exchange as it relates to program design and performance objectives

| FEDERAL ACTIVITIES | STATE ACTIVITIES | LOCAL ACTIVITIES |
|---|---|---|
| II-F-1<br>Assists the SEA by issuing sets of criteria for those requiring specific decisions on program design and compliance<br>116.4; 116d.39 | II-S-1<br>Assists the LEA by issuing sets of criteria for those requiring specific decisions on program design and compliance<br>116.4; 116d.39; 116d.11 | II-L-1<br>Cooperates with SEA in developing program design in compliance with criteria<br>116d.39 |
| II-F-2<br>Provides technical assistance to SEAs in program development activities<br>116.4; 116d.39; 100b.436 | II-S-2<br>Provides technical assistance to LEA staff to develop and devise optimum program design<br>116.4; 116d.7; 116d.31; 116d.39 | II-L-2<br>Works cooperatively with the SEA in planning project activities to meet the special educational needs |
| II-F-3<br>Reviews SEAs needs assessment as a basis for program development<br>116.47; 116d.3 | II-S-3<br>Identifies statewide special needs, as a basis for program development<br>116d.3; 116d.39; 116d.6 | II-L-3<br>Conducts individualized special needs assessment<br>116d.6; 116.47 |
| II-F-4<br>Establishes national goals and priorities based on needs of migrant children<br>116d.31; 116d.39 | II-S-4<br>Establishes state goals and priorities based on statewide special needs<br>116d.31; 116d.39 | II-L-4<br>Establishes local goals and priorities<br>116d.6 |
| II-F-5<br>Requires SEA to develop performance objectives<br>116d.6; 116d.31 | II-S-5<br>Establishes performance objectives based on State goals and priorities<br>116d.6; 116d.31 | II-L-5<br>Develops specific local performance objectives related to the assessed needs of the migrant children<br>116d.6; 116d.31 |

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PROGRAM COMPONENT II: Program Development (continued)

- .Develops and implements program design and performance objectives based upon needs assessment
- .Conducts needs assessment and implements guidelines for program development
- .Manages information exchange as it relates to program design and performance objectives

| FEDERAL ACTIVITIES | STATE ACTIVITIES | LOCAL ACTIVITIES |
|---|---|---|
| II-F-6<br>Recommends individualized educational plan for migrant children<br>116.47 | II-S-6<br>Recommends that LEAs develop an individualized educational plan for migrant children<br>116.47 | II-L-6<br>Implements individualized educational plan for migrant children<br>116.47 |
| II-F-7<br>Promotes interstate cooperative planning in program design | II-S-7<br>Cooperatively develops interstate program design to insure continuity | II-L-7<br>Cooperatively develops LEA projects to insure interstate program continuity |
| II-F-8<br>Reviews and approves SEA program design as part of application process<br>116.3(b) | II-S-8<br>Establishes procedures for submission, review and approval of program design<br>116d.31; 116d.39 | II-L-8<br>Develops project applications based on SEA program design<br>116d.6 |
| II-F-9<br>Plans and conducts national regional workshops to increase knowledge and skills in program development<br>116.d; 116.36 | II-F-9<br>Provides staff development opportunities to ensure that program staff has skills to implement state goals<br>116.4; 116.36 | II-L-9<br>Implements staff development activities in accordance with approved project application<br>116.36 |

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PROGRAM COMPONENT II: Program Development (continued)

- Develops and implements program design and performance objectives based upon needs assessment
- Conducts needs assessment and implements guidelines for program development
- Manages information exchange as it relates to program design and performance objectives

| FEDERAL ACTIVITIES | STATE ACTIVITIES | LOCAL ACTIVITIES |
|---|---|---|
| II-F-10<br>Provides assistance in the selection of curriculum materials and diagnostic instruments for migrant students<br>116.4; 116.44 | II-S-10<br>Recommends curriculum material, teaching methodologies and diagnostic instruments suitable for migrant children to be served<br>116.4; 116d.7; 116.44 | II-L-10<br>Selects curriculum material, teaching methodologies, and diagnostic instruments used in the program<br>116.44 |

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PROGRAM COMPONENT III: Fund Allocation

- Computation of State allocations, establishment of procedures for submitting applications for program grants
- Processing of documents to effect funds transfers
- Establishment of procedures for allocation and reallocation of funds

| FEDERAL ACTIVITIES | STATE ACTIVITIES | LOCAL ACTIVITIES |
|---|---|---|
| III-F-1<br>Computes the entitlements of each SEA, based on the number of migrant children in the States as determined by MSRTS enrollment or such other statistics as the Commissioner of Education determines to be accurate<br>Sec. 122(b); 116d.21 | III-S-1<br>Establishes procedures for allocation of program funds based on LEA project objectives, number of children to be served, length of project, available resources and other criteria | |
| III-F-2<br>Provides SEAs with Notification of Entitlement, advising them of the amount of funds which are available for each State<br>116d.22 | III-S-2<br>Notifies LEAs of funds available to develop local project | III-L-2<br>Utilizes procedures established by SEA to develop budget for a migrant education project<br>116d.(a)(7) |
| III-F-3<br>Provides SEA with FTE count derived from Migrant Program Allocation System (MPAS)<br>116d.21(b) | | |
| III-F-4<br>Establishes procedures for submitting applications for grants by SEAs<br>116d.3; 116d.5 | III-S-4<br>Establishes procedures for submitting applications for grants by LEAs<br>116d.6 | III-L-4<br>Submits a migrant education project application<br>116d.6(a)(7) |

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PROGRAM COMPONENT III: Fund Allocation (continued)

- Computation of State allocations, establishment of procedures for submitting applications for program grants
- Processing of documents to effect funds transfers
- Establishment of procedures for allocation and reallocation of funds

| FEDERAL ACTIVITIES | STATE ACTIVITIES | LOCAL ACTIVITIES |
|---|---|---|
| III-F-5<br>Reviews SEA applications for program grant<br>116d.22<br>III-F-6<br>Based upon approval, issues notification of grant award to SEA<br>116d.22 | | |

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PROGRAM COMPONENT IV: Fiscal Management

- Development and maintenance of sound financial procedures.
- Establishment of guidelines for expenditures, conduct of audits, maintenance of records, management of funds and preparation of financial reports.

| FEDERAL ACTIVITIES | STATE ACTIVITIES | LOCAL ACTIVITIES |
|---|---|---|
| IV-F-1<br>Maintains financial management procedures and guidelines in conformance with Federal legislation | IV-S-1<br>Maintains financial management procedures and guidelines in conformance with Federal and State laws<br>100b.254 | IV-L-1<br>Maintains financial management procedures that conform to Federal, State and local guidelines<br>100b.301 |
| IV-F-2<br>Establishes guidelines for various types of expenditures that are reasonable and necessary to carry out an approved project<br>116d.10 | IV-S-2<br>Provides financial management and guidelines for LEA<br>100b.81 | IV-L-2<br>Maintains fiscal records of income and expenditures of all Title I Migrant funds<br>116d.6 |
| IV-F-3<br>Plans and conducts staff development activities in fiscal management<br>116.4 | IV-S-3<br>Plans and conducts staff development activities to insure good fiscal management practices<br>116.4; 116.36 | IV-L-S<br>Implements staff development activities to ensure good fiscal management practices as required by SEA and LEA policies<br>116.36 |
| IV-F-4<br>Conducts annual fiscal review of each SEA<br>100b.436 | IV-S-4<br>Establishes regulations and guidelines to insure LEAs avoidance of imprudent, wasteful, extravagant or improper expenditures of funds<br>116d.11 | IV-L-4<br>Implements procedures to ensure compliance with regulations concerning avoidance of imprudent, wasteful, extravagant, or improper expenditures of funds and avoidance of use of funds to supplant State and local funding<br>116d.11 |

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PROGRAM COMPONENT IV: Fiscal Management (continued)
- Development and maintenance of sound financial procedures
- Establishment of guidelines for expenditures, conduct of audits, maintenance of records, management of funds and preparation of financial reports

| FEDERAL ACTIVITIES | STATE ACTIVITIES | LOCAL ACTIVITIES |
|---|---|---|
| IV-F-5<br>Conducts audits of each SEA<br>100b.484 | IV-S-5<br>Maintains procedures for retention of all records relating to grants or the expenditure of such grants until audited or for five years<br>100b.403 | IV-L-5<br>Maintains project records for five years<br>100b. 403 |
|  | IV-S-6<br>Provides fiscal procedures and guidelines for cooperative projects among LEAs<br>116.31 | IV-L-6<br>Implements fiscal procedures and guidelines for use by cooperative projects among LEAs<br>116.31 |
|  | IV-S-7<br>Reviews, negotiates, and approves local indirect cost plans<br>100c.2(b) | IV-L-7<br>Submits project indirect cost plans to SEA<br>100c.2 |
|  | IV-S-8<br>Conducts audit of local projects<br>100b.301 | IV-L-8<br>Maintains audit records for projects<br>100b.30 |
| IV-F-9<br>Collects and compiles financial status reports submitted by SEAs<br>100b.403 | IV-S-9<br>Submits twice annually financial status reports on forms prescribed by USOE<br>100b.403 | IV-L-9<br>Submits monthly financial status reports |

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PROGRAM COMPONENT IV: Fiscal Management (continued)
- Development and maintenance of sound financial procedures
- Establishment of guidelines for expenditures, conduct of audits, maintenance of records, management of funds and preparation of financial reports

| FEDERAL ACTIVITIES | STATE ACTIVITIES | LOCAL ACTIVITIES |
|---|---|---|
| | | IV-L-10<br>Maintains fiscal effort with respect to current expenditures in project areas, being sure they are comparable to non-project areas<br>116d.36 |
| | IV-S-11<br>Maintains title and control over property acquired under the migrant education program<br>116d.9 | IV-L-11<br>Maintains inventory of all equipment purchased with migrant education funds<br>100b.25 |

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PROGRAM COMPONENT V: Utilization of the Migrant Student Record Transfer System (MSRTS)

. Use of the automated computer-based data system for the transmission of student records of migratory children among school districts

| FEDERAL ACTIVITIES | STATE ACTIVITIES | LOCAL ACTIVITIES |
|---|---|---|
| V-F-1<br>Set aside funds on an equitable basis from the states to fund the operation of national MSRTS<br>116d.24 | V-S-1<br>Recommend funding level to support national MSRTS contract<br>Sec. 116d.24 | |
| V-F-2<br>Negotiates and approves contract to operate the National MSRTS<br>116d.24 | V-S-2<br>Makes recommendations concerning content of operations contract<br>116d.24 | V-L-2<br>Submits recommendations for improvement of MSRTS operations to SEA<br>116d.24 |
| V-F-3<br>Develops and disseminates OE policies, procedures, and guidelines in the operation of National MSRTS<br>Sec. 426; 116d.31 | V-S-3<br>Disseminates Federal and State policies, procedures and guidelines for the operation of MSRTS<br>116.4; 116,36; 116d.24 | V-L-3<br>Informs personnel of MSRTS guidelines and procedures<br>116.4; 116.36 |
| | V-S-4<br>Budgets funds for SEA support of the MSRTS<br>116d.3; 116d.24 | V-L-4<br>Requests funds necessary to support MSRTS operations at the local level<br>116d.6; 116.5; 116d.24 |
| V-F-5<br>Provides technical assistance for users of MSRTS<br>Sec. 426; 100b.436 | V-S-5<br>Provides technical assistance on MSRTS to terminal operators and local project personnel<br>116.4 | V-L-5<br>Establishes procedures for implementing recommendations on technical assistance provided by SEA<br>116d.24 |

Citations from the Elementary and Secondary Education Act include Sections 121, 122, 142 and 151.

Citations from the General Education Provisions Act include Sections 422, 423, 426 and 438.

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Citations from the Regulations for ESEA Title I are from Part 116 and 116d.

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PROGRAM COMPONENT V: Utilization of the Migrant Student Record Transfer System (MSRTS) (continued)

. Use of the automated computer-based data system for the transmission of student records of migratory children among school districts

| FEDERAL ACTIVITIES | STATE ACTIVITIES | LOCAL ACTIVITIES |
|---|---|---|
| V-F-6<br>Participates in training sessions conducted by National Data Bank staff<br>116.4; 100b.436 | V-S-6<br>Plans and conducts staff development activities for LEA on effective utilization of MSRTS to the benefit of migrant students<br>116.4; 116.34; 116.36 | V-L-6<br>Makes personnel available for training<br>116.4; 116.34; 116.36 |
| V-F-7<br>Validates the number of children who are enrolled in the MSRTS central depository | V-S-7<br>Develops and implements validation procedures for MSRTS for LEAs<br>116.4 | V-L-7<br>Develops procedures for data collection and transmittal of MSRTS information |
| V-F-8<br>Develops procedures to ensure the system safeguards confidentiality of individual data<br>Sec.438 | V-S-8<br>Implements procedures to ensure the system safeguards provide confidentiality<br>Sec. 438 | V-L-8<br>Implements procedures to insure confidentiality<br>Sec. 438 |
| V-F-9<br>Monitors national MSRTS contractural performance<br>100b.436 | V-S-9<br>Monitors MSRTS operation at the SEA and local level<br>116.4 | V-L-9<br>Monitors MSRTS operation at the local level<br>116.4 |

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PROGRAM COMPONENT VI: Interagency Coordination

- Initiation, coordination and dissemination of information regarding the services of various agencies.
- Utilization of information from various agencies in program planning and implementation.
- Coordination of available programs and services

| FEDERAL ACTIVITIES | STATE ACTIVITIES | LOCAL ACTIVITIES |
|---|---|---|
| VI-F-1<br>Requires interagency cooperation in program planning and operation<br>116d.39 | VI-S-1<br>Establishes and maintains coordination with all agencies represented on the State Advisory Committee on Services to Migrants<br>116.41; 100b.275 | VI-L-1<br>Establishes and maintains coordination with State Migrant Office on the work of the State Advisory Committee on Services to Migrants<br>116.41 |
| VI-F-2<br>Issues program information concerning resources and for interagency coordination services available<br>116.4; sec. 422 | VI-S-2<br>Develops and publishes a directory of statewide resources and services (state and federal) available for programs use<br>116.45; 100b.275 | VI-L-2<br>Utilizes all resources/ services available in planning local school programs<br>116.41; 116d.39 |
| VI-F-3<br>Provides technical assistance to SEAs on interagency coordination<br>100b.436 | VI-S-3<br>Provides technical assistance to LEAs on the interagency committee<br>116.4; 100b.275 | VI-L-3<br>Cooperatively establishes a local interagency advisory committee with other local agencies<br>116.41; 116d.39 |
|  | VI-S-4<br>Conducts workshops for LEAs relating to interagency coordination<br>116.36 | VI-L-4<br>Participates in State workshops relating to interagency coordination<br>116.36 |

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PROGRAM COMPONENT VI: Interagency Coordination (continued)

. Initiation, coordination and dissemination of information regarding the services of various agencies
. Utilization of information from various agencies in program planning and implementation
. Coordination of available programs and services

| FEDERAL ACTIVITIES | STATE ACTIVITIES | LOCAL ACTIVITIES |
|---|---|---|
|  | VI-S-5<br>Works with other agencies in securing instructional and supportive services for migrants<br>100b.275; 116.41 | VI-L-5<br>Utilizes services from other agencies: MSFA, Health Dept., Social Services and Rural Manpower<br>116.41 |

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PROGRAM COMPONENT VII: Parent Involvement

. Development of systems and procedures to keep parents aware of services available to migratory children.

| FEDERAL ACTIVITIES | STATE ACTIVITIES | LOCAL ACTIVITIES |
|---|---|---|
| VII-F-1<br>Establishes regulations and guidelines for the involvement of parents in migrant programs<br>116d.37 | VII-S-1<br>Develops cooperatively with LEAs guidelines for the establishment of a State parent council in conformance with Federal guidelines<br>116d.37 | VII-L-1<br>Establishes Parent Involvement Council to ensure parental and community involvement in accordance with SEA guidelines<br>116d.37 |
| VII-F-2<br>Provides technical assistance to SEAs in support of parental involvement<br>100b.436; 116d.37 | VII-S-2<br>Provides technical assistance to LEAs in parental involvement<br>116.4; 116d.37 | VII-L-2<br>Utilizes technical assistance in planning parent involvement activities<br>116d.37 |
| VII-F-3<br>Plans and conducts staff development activities in the area of parental involvement<br>116d.37 | VII-S-3<br>Plans and conducts staff development activities promoting the involvement of parents in migrant education<br>116d.37; 116.36 | VII-L-3<br>Plans and conducts staff development activities promoting the involvement of parents in the migrant education<br>116.36 |
| VII-F-4<br>Monitors State and local projects to insure parental participation<br>Sec. 100b.436; 116d.37 | VII-S-4<br>Secures parents'views with respect to the planning, operation and evaluation of the State Migrant Program<br>116d.37 | VII-L-4<br>Secures parents'views with respect to the planning, operation and evaluation of local migrant programs<br>116d.37 |

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PROGRAM COMPONENT VIII: Interstate Coordination

- Cooperation and exchange of personnel, materials, training programs, procedures and services among states.
- Providing liaison with other state migrant programs.
- Exchange of program information among states.

| FEDERAL ACTIVITIES | STATE ACTIVITIES | LOCAL ACTIVITIES |
|---|---|---|
| VIII-F-1<br>Establishes regulations and guidelines for interstate coordination<br>116d.39 | VIII-S-1<br>Complies with USOE guidelines and regulations in providing for interstate cooperative projects<br>116d.39 | VIII-L-1<br>Assists the SEA in cooperating with other State migrant programs or projects<br>116d.39 |
| VIII-F-2<br>Assists SEAs in establishing interstate guidelines to implement interstate services in MSRTS<br>116d.39 | VIII-S-2<br>Follows guidelines for cooperating in the Migrant Student Record Transfer System<br>116d.39; 116d.21 | VIII-L-2<br>Participates in the Migrant Student Record Transfer System<br>116d.39; 116d.21 |
| VIII-F-3<br>Promotes interstate conferences on migrant education<br>116d.39 | VIII-S-3<br>Plans interstate regional and national migrant education meetings<br>116d.39 | VIII-L-3<br>Makes recommendations to SEA for participation in interstate and regional meetings on migrant education<br>116.36; 116d.39 |
| VIII-F-4<br>Provides technical assistance to SEAs on interstate coordination<br>Sec.100b.436 | VIII-S-4<br>Provides technical assistance to LEAs on interstate coordination<br>116d.39; 116.4 | VIII-L-4<br>Implements interstate activities to insure program continuity<br>116d.39 |

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PROGRAM COMPONENT IX: Information Dissemination

- . Development and implementation of procedures for the dissemination of information relating to the migrant program.
- . Providing information, recommendations, evaluations and regulations related to migrant programs to interested agencies, committees, parents, news media and the general public.

| FEDERAL ACTIVITIES | STATE ACTIVITIES | LOCAL ACTIVITIES |
|---|---|---|
| IX-F-1<br>Provides technical assistance to state on information dissemination<br>116d.31; Sec. 426 | IX-S-1<br>Plans and develops a dissemination program<br>116d.10 | IX-L-1<br>Plans and develops a dissemination program<br>116d.10 |
| IX-F-2<br>Collects and disseminates information regarding the migrant education program<br>116d.31; 116.44 | IX-S-2<br>Disseminates program information through periodic newsletters<br>116d.31; 116.45 | IX-L-2<br>Collects and disseminates information regarding migrant education program<br>116d.31; 116.45 |
|  | IX-S-3<br>Develops and distributes information brochures<br>116d.31; 116.45 |  |
|  | IX-S-4<br>Collects and disseminates interstate program information<br>116d.31; 116.45 |  |
|  | IX-S-5<br>Distributes federal regulations and program guides<br>116d.31; 116.45 |  |
|  | IX-S-6<br>Disseminates evaluation reports<br>116d.31; 116.45 |  |

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PROGRAM COMPONENT IX: Information Dissemination (continued)

- Development and implementation of procedures for the dissemination of information relating to the migant program
- Providing information, recommendations, evaluations and regulations related to migrant programs to interested agencies, committees, parents, news media and the general public.

| FEDERAL ACTIVITIES | STATE ACTIVITIES | LOCAL ACTIVITIES |
|---|---|---|
|  | IX-S-7<br>Produces and shows audio-visual informational programs<br>116d.31; 116.45 |  |
|  | IX-S-8<br>Collects and distributes information on exemplary projects<br>116d.31; 116.45 |  |
| IX-F-9<br>Develops and disseminates regulations, program guides and other materials affecting the administration and operation of migrant programs<br>116d.31 | IX-S-9<br>Establishes and maintains procedures for dissemination of all migrant education information<br>116d.31; 116.45 | IX-L-9<br>Implements procedures for dissemination of migrant education information<br>116d.31; 116.45 |

Citations from the Elementary and Secondary Education Act include Sections 121, 122, 142 and 151.
Citations from the General Education Provisions Act include Sections 422, 423, 426 and 438.
Citations from the General Provisions for Programs are from Part 100b.
Citations from the Regulations for ESEA Title I are from Parts 116 and 116d.

PROGRAM COMPONENT X: Monitoring

- Development of instruments and procedures to measure program compliance with respect to relevant regulations.
- Conducting site visits to identify corrective actions necessary to insure compliance with rules and regulations

| FEDERAL ACTIVITIES | STATE ACTIVITIES | LOCAL ACTIVITIES |
|---|---|---|
| X-F-1<br>Establishes procedures and policies for monitoring SEA activities | X-S-1<br>Establishes procedures, policies and objectives for monitoring all local migrant program projects<br>116d.7; 100b.431 | X-L-1<br>Maintains a systematic procedure for monitoring project activities |
| X-F-2<br>Develops and utilizes uniform checklist and other monitoring instruments<br>100b.436 | X-S-2<br>Develops and utilizes uniform checklists and other monitoring instruments<br>116.4; 116d.7; 116d.10 | X-L-2<br>Utilizes uniform checklist for program monitoring |
| X-F-3<br>Make site visit to each state at least once a year to examine program compliance with approved SEA application<br>100b.436 | [illegible]<br>Establishes a formalized visitation schedule to all LEAs<br>116.4; 116d.7; 100b.431 | X-L-3<br>Establishes a visitation schedule to all project schools |
| X-F-4<br>Conducts an exit conference with SEA personnel highlighting findings and recommendations | X-S-4<br>Conducts an exit conference with LEA personnel highlighting findings and recommendations | X-L-4<br>Participates in exit conference |
|  | X-S-5<br>Documents site visit findings recognizing strengths and weaknesses observed<br>100b.436 | X-L-5<br>Responds to SEA monitoring report and indicates corrective actions |

Citations from the Elementary and Secondary Education Act include Sections 121, 122, 142 and 151.
Citations from the General Education Provisions Act include Sections 422, 423, 426 and 438.
Citations from the General Provisions for Programs are from Part 100b.
Citations from the Regulations for ESEA Title I are from Parts 116 and 116d.

PROGRAM COMPONENT X: Monitoring (continued)

- Development of instruments and procedures to measure program compliance with respect to relevant regulations
- Conducting site visits to identify corrective actions necessary to insure compliance with rules and regulations

| FEDERAL ACTIVITIES | STATE ACTIVITIES | LOCAL ACTIVITIES |
|---|---|---|
| X-F-6<br>Offers technical assistance to overcome any problems<br>100b.436 | X-S-6<br>Offers technical assistance to overcome problems in program monitoring<br>116d.10; 116.4 | X-L-6<br>Establishes planned actions for implementing the suggestions of SEA |

Citations from the Elementary and Secondary Education Act include Sections 121, 122, 142 and 151.
Citations from the General Education Provisions Act include Sections 422, 423, 426 and 438.
Citations from the General Provisions for Programs are from Part 100b.
Citations from the Regulations for ESEA Title I are from Parts 116 and 116d.

PROGRAM COMPONENT XI: Evaluation

- Assessment of program evaluation needs.
- Establishment of program evaluation criteria, including federal and state evaluation requirement.
- Development and implementation of data collection procedures.

| FEDERAL ACTIVITIES | STATE ACTIVITIES | LOCAL ACTIVITIES |
|---|---|---|
| XI-F-1<br>Requires SEA to submit an annual evaluation report November 15 of each year | XI-S-1<br>Requires the LEA to submit an evaluation report within 15 calendar days after the end of the project<br>Sec. 141(a)(7); 116.46 | XI-L-1<br>Implements the SEA evaluation requirements<br>116.7; 116.46 |
| XI-F-2<br>Provides minimum criteria for state evaluation<br>Sec. 151; 116d.31 | XI-S-2<br>Develops statewide evaluation plan listing criteria necessary for implementation<br>116.43 | XI-L-2<br>Develops local evaluation procedures to implement SEA requirements<br>116.43 |
| XI-F-4<br>Plans and conducts staff development in training sessions evaluation<br>Sec. 151 | XI-S-4<br>Plans and conducts staff development activities relating to program evaluation<br>116.36; 116.4 | XI-L-4<br>Plans and conducts staff development activities in evaluation<br>116.36; 116.44 |
| XI-F-5<br>Compiles fiscal, statistical, and program reports evaluating the effectiveness of all Title I Migrant Programs for submission to Congress<br>Sec 151(h); Sec. 417 | XI-S-5<br>Submits to USOE evaluation reports and other reports as required<br>Sec. 142(a); 116.7 | XI-L-5<br>Submits to SEA appropriate evaluation reports and other reports as required<br>Sec. 141 (a); 116.43; 116.46 |

Citations from the Elementary and Secondary Education Act include Sections 121, 122, 142 and 151.
Citations from the General Education Provisions Act include Sections 422, 423, 426 and 438.
Citations from the General Provisions for Programs are from Part 100b.
Citations from the Regulations for ESEA Title I are from Parts 116 and 116d.

PROGRAM COMPONENT XI: Evaluation (continued)

- Assessment of program evaluation needs
- Establishment of program evaluation criteria, including federal and state evaluation requirement
- Development and implementation of data collection procedures

| FEDERAL ACTIVITIES | STATE ACTIVITIES | LOCAL ACTIVITIES |
|---|---|---|
| XI-F-6 | XI-S-6 | XI-L-6 |
| Reviews annual SEA evaluations<br>100b.436 | Conducts LEA - State evaluation conference to present evaluation findings in the state evaluation report<br>116.4 | |
| | XI-S-7 | XI-L-7 |
| | Conducts LEA-State evaluation conference to present evaluation findings relating to the local evaluation report | Responds to SEA's evaluation of local project effectiveness |

Citations from the Elementary and Secondary Education Act include Sections 121, 122, 142 and 151.
Citations from the General Education Provisions Act include Sections 422, 423, 426 and 438.
Citations from the General Provisions for Programs are from Part 100b.
Citations from the Regulations for ESEA Title I are from Parts 116 and 116d.

PROGRAM COMPONENT XII: Reporting

- Development of forms, procedures and systems for reporting to appropriate agencies, councils and the general public.
- Compilation and submission of fiscal and statistical, evaluative and other types of reports to appropriate agencies, councils and the general public

| FEDERAL ACTIVITIES | STATE ACTIVITIES | LOCAL ACTIVITIES |
|---|---|---|
| XII-F-1<br>Develops uniform reporting procedures and forms for all state educational agencies<br>100b.402 | XII-S-1<br>Develops uniform reporting procedures and forms for LEAs<br>100b.402 | XII-L-1<br>Maintains a system for reporting information to the state educational agency<br>Sec. 141 |
| XII-F-2<br>Provides technical assistance to SEAs in meeting reporting requirements<br>116.4; 100b.436 | XII-S-2<br>Provides technical assistance to LEAs in meeting reporting requirements<br>16.4a; 100b.436 | XII-L-2<br>Submits all required reports to SEA using appropriate SEA reporting forms<br>Sec. 141; 116.46 |
| XII-F-3<br>Plans and conducts staff development activities in support of the reporting requirements<br>100b.436 | XII-S-3<br>Plans and conducts staff development activities in support of the reporting requirements<br>116d.31; 116.36 | XII-L-3<br>Participates in staff development activities relating to reporting requirements |
| XII-F-4<br>Compiles fiscal, statistical and performance reports relating to state migrant programs<br>Sec. 422 (a)(3) | XII-S-4<br>Compiles fiscal, statistical and performance reports relating to state migrant programs<br>Sec. 422 | |
| XII-F-5<br>Submits required reports to Congress, SEAs and the general public<br>Sec. 422 (b) | XII-S-5<br>Submits required reports to USOE and other interested parties<br>116.7 | XII-L-5<br>Disseminates data, reports and general information to Parent Involvement Councils and to the local community<br>Sec. 141(a)(8) |

Citations from the Elementary and Secondary Education Act include Sections 121, 122, 142 and 151.
Citations from the General Education Provisions Act include Sections 422, 423, 426 and 438.
Citations from the General Provisions for Programs are from Part 100b.
Citations from the Regulations for ESEA Title I are from Parts 116 and 116d.

## SELF-ASSESSMENT INSTRUMENT

### Migrant Education Administrative Functions

Program Component:

Date:

Assessment Conducted by:

Performance Assessment
1 = Not applicable or does not apply
2 = Unsatisfactory - no effort or performance observed
3 = Partially met - needs more attention or effort
4 = Substantially met - some improvement possible
5 = Fully met - meets all criteria and performance standards

| Activity Number | Performance (circle one) | Needs or Problems Noted | Actions Recommended |
|---|---|---|---|
| | 1 2 3 4 5 | | |
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| | 1 2 3 4 5 | | |

| | |
|---|---|
| | Total performance in this management component |
| | Average performance in this management component* |

*Enter the average performance on the self-assessment profile.

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## SELF-ASSESSMENT PROFILE

### Migrant Education Administrative Functions

Instructions
Enter the date and the average performance ratings from the self-assessment instrument for each program component

| | | Assessment Dates | | | | | | |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| PROGRAM COMPONENTS | Identification and Recruitment | | | | | | | |
| | Program Development | | | | | | | |
| | Fund Allocation | | | | | | | |
| | Fiscal Management | | | | | | | |
| | Utilization of MSRTS | | | | | | | |
| | Interagency Coordination | | | | | | | |
| | Parental Involvement | | | | | | | |
| | Interstate Coordination | | | | | | | |
| | Information Dissemination | | | | | | | |
| | Monitoring | | | | | | | |
| | Evaluation | | | | | | | |
| | Reporting | | | | | | | |

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## FISCAL AFFAIRS

This section of the Administrative Guide provides information concerning the procedures that are to be used in accounting for migrant funds and the records that are to be maintained for fiscal purposes.

### Accounting Basis To Be Used

All administrative units will use the obligation basis of accounting in maintaining fiscal records and reporting on migrant education projects. Use of funds for these projects will be determined on the basis of documentary evidence of a binding commitment for the acquisition of goods or property or for the performance of work, except that the expenditures of funds for salaries and for travel shall be determined on the basis of the time personal services were rendered or such travel was performed.

### Project Approvals and Obligating Documents

All administrative unit projects to be financed with migrant education funds for a particular fiscal year must be approved by the Director of Migrant Education by June 30 of that fiscal year and the "ending date" of the projects can be no later than September 30 of the following fiscal year.

Migrant education funds distributed to an administrative unit shall not be available for use by that administrative unit prior to the date of the project approval by the State Director of Migrant Education.

Obligating documents may be issued by an administrative unit from the "date of approval" until the "ending date" of the project provided they are for services and activities to be carried out prior to the close of the project and are charged to the fiscal year in which the project was approved.

Obligating documents may be issued during the months of July, August and September of the next fiscal year if the "ending date" of the project covers these months. This will permit financing a summer project with grant funds available for the year in which the project is approved. Obligating documents must be issued during August for any payments to be made after this date for expenses incurred prior to the ending date of the project, including travel and salaries, to be paid in September.

### Disbursements and Bank Accounts

Based on the "disbursement and estimated requirements of federal funds report", an advance of funds on a monthly basis will be made to cover estimated disbursements for each approved project. A state voucher payable to the local agency

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will be mailed to the administrative unit. These state vouchers will be deposited as receipts in the local bank account and the funds will be disbursed by the administrative units for expenditures of approved project activities by local fund vouchers. Federal funds may be deposited either in the local current expense fund or in a separate bank account established for this purpose.

Separate ledger accounts must be established for each project regardless of the method used for deposit and disbursement of funds.

## Ledger Accounts

Separate ledger accounts must be maintained by the administrative units for each project. The Division of Auditing and Accounting has designed ledger account forms which it recommends that each administrative unit establish and maintain on approved projects.

These accounts are as follows:

1. Allotment Control Ledger, Form 18AA-70

2. Total Project Control Ledger, Form 18AA-71

3. Budget Control Ledger, Form 18AA-73

4. Subsidiary Ledger of Detail Expenditure Accounts, Form 18AA-74

The Division of Auditing and Accounting has printed ledger cards, size 8½"x 11" for the account forms. These ledger cards will be furnished to those administrative units that desire to use them. The cards will fit a standard ledger tray.

Some administrative units that use machine accounting may desire to have their own ledger accounts printed in order to assure that the account form will fit the machine operation. It is expected that the information on the forms provided by the Division of Auditing and Accounting, will be provided on those account forms printed by the administrative units.

## Adjustments Due to Overpayments

Any funds advanced to an administrative unit in excess of the amount needed for approved project costs shall constitute an overpayment and must be refunded to the State Board of Education by check.

The administrative unit will be advised of the procedure to follow. Also, any audit exception sustained by the state from findings of local auditors, from its own audit findings, or by the U. S. Commissioner of Education from the findings of federal auditors will constitute an overpayment.

### Liquidation of Obligations

If the final payment for a previously reported obligation for a local project is not completed before the end of the fiscal year following the fiscal year in which the project was approved, the unliquidated (unpaid) portion of the obligation must be cancelled. There may be no Federal financial participation in such costs extending beyond this period, except in the case of construction costs where the nature of the construction will determine the length of the payment period.

### Retention of Records

All records relating to grants or the expenditure of such grants must be kept for five years after the end of the fiscal year in which the transaction occurred, or until the educational agency is notified that such records are not needed for administrative review. There is only one exception -- records pertaining to any claim or expenditure which has been questioned must be maintained until necessary adjustments have been made, reviewed and approved by the Department of Health, Education and Welfare.

### Carry-Over Provision For Migrant Funds

Public Law 91-230 authorizes the State Educational Agency to carry over migrant funds from the fiscal year for which they were appropriated to the next succeeding year. There is no provision for carry-over of migrant funds at the local educational agency level. Since the LEA cannot obligate funds after the "ending date" of the project, and in order for the State Director of Migrant Programs to make the most effective use of all available funds, it is imperative that local project budgets be reviewed at the end of the project period and all unobligated funds be returned to the State Migrant Education Office.

In the event the local project director does not return any unobligated funds within 30 days after the conclusion of the project, the State Migrant Office will reduce the amount approved for the local project budget by the amount of the unobligated funds and the local project director will be required to submit an amendment reflecting such reduction in the project budget by expenditure categories.

### Transfer or Reallocation of Funds

Neither before nor after project approval may the State or the local administrative units transfer or reallocate funds allotted to one administrative unit to another. This, however, does not preclude participation of administrative units in cooperative projects.

### Cooperative Projects

In the event two or more administrative units decide to submit a proposal for a project under cooperative auspices, the actual administration of the project must be delegated to one of the administrative units. The amount of funds necessary to carry out the program will be allocated to the administrative unit responsible for program administration. The administrative unit designated to administer the project will become custodian of all project funds and will assume all responsibility for the proper accounting and maintenance of fiscal records for such funds.

### Deviation in Utilization of Project Funds

Obligations and disbursements on each project will be controlled by the budget contained in the project proposal. The total amount of funds approved for the project may not be exceeded. If additional funds are required for approved program activities, a request for budget amendment should be submitted to the State Director of Migrant Programs.

Under good accounting principles, no budget will deviate from the total amount approved for a project, and no over expenditure will occur in any line item.

## PROJECT EXPENDITURES

Migrant funds may be used for such expenditures as are reasonably necessary to carry out an approved project. The program or project expenditures may include a wide range of items such as salaries, staff travel, pupil transportation, equipment, instructional supplies, training of personnel, and payment of utilities. Each project or the program the funds supplement must provide sufficient direct services to migrant children to give reasonable promise of substantial progress toward meeting their special educational or related needs. Only those expenditures which are directly attributable to the migrant education program are to be included in the application.

All administrative unit projects to be financed with funds appropriate for a particular fiscal year must be approved by the Director of Migrant Programs by June 30 of that fiscal year, and the "ending date" for the completion of the project can be no later than August 31 of the following year.

Migrant program funds shall not be available for use by that administrative unit with respect to obligations incurred by the administrative unit prior to the date of the project approval by the State Director of Migrant Programs.

> Expenditures of any kind which are not covered by an approved application or an approved written amendment to a project, are not permitted and, if made, must be disallowed at the time of an audit.

### Purchase of Equipment and Supplies

Expenditures for equipment can be justified when (1) it is established that the equipment is essential to the provision of services to migrant children, and (2) the applicant has a staff trained to use the requested equipment or has made provision for adequate staff training in the use of such equipment. All projects providing for the purchase of equipment must also provide direct instructional services to participating migrant children either as a part of the project or as a part of the program supplemented by the project. Equipment previously acquired with P. L. 89-750 funds must be accounted for in a documented inventory by the LEA, and will be taken into consideration by the State educational agency in its review of local project applications.

It is expected that every effort will be made to obtain the proposed equipment and necessary supplies at such a time during the course of the project that they can be effectively used for the purpose for which they were intended. The provisions of G.S. 115-52 apply to purchases under migrant projects. In making purchases, the procedures outlined in Part VII of the Purchasing Manual issued by the Purchase and Contract Division of the Department of Administration must be followed.

Title and control of all equipment purchased wholly or in part with migrant education funds is retained by the State Educational Agency.

## Repair of Equipment

Costs for the repair of equipment purchased under an approved project are allowable expenditures, provided that the equipment is being used in a current approved project. However, it is expected that proper care and maintenance will be exercised in the case of equipment purchased with project funds in order to minimize expenditures for repairs.

## Insurance for Equipment

Where State Educational Agencies, local educational agencies, and participating schools carry insurance against theft, fire, and vandalism, items purchased under project funds normally will be included automatically under the terms of such insurance. If equipment purchased under the migrant project is not covered by such a policy, expenditures from project funds for suitable insurance is permitted. It should be noted that Part 100b.215 of the General Provisions for Programs requires an effective control system and places the liability for any loss or destruction of any uninsured property caused by negligence on the grantee.

## Audit Costs

The cost of the audit is applicable to a current fiscal year project. The purchase order or contract should be issued prior to the ending date of the project and recorded on the "Record of Project Transactions" as an obligation for the current fiscal year.

## Pupil Transportation

Expenditures for transportation of migrant pupils under certain conditions are permissible. Ordinarily the transportation involved is that of pupils from the campsite to their school and to such educational sites as museums, places of historical or scientific importance, or the location of off-campus project activities. Usually pupil transportation funds are requested as components of projects, with instructional services to the migrant children being provided through other project funds. It is possible, however, for a project to consist wholly of expenditures for equipment, or pupil transportation, if such expenditures are essential to the success of a given project, and providing that the project supplements a program which does provide direct instructional services to migrant children.

The cost of pupil transportation services is computed on the basis of the salaries for bus drivers plus the per mile operating cost of the school buses operated by the local educational agency. The per mile operating cost of the school buses is determined by the Division of Transportation, State Board of Education.

## Salaries

During the regular school term, salaries should be computed on the basis of the State salary schedule as determined by the individual's certification, plus any applicable local supplement paid to all other professional employees for similar responsibilities. During the summer migrant projects, the salaries may be computed the same as during the regular school year or according to a salary schedule applicable to all summer employees. Salaries of the nonprofessional staff may be computed on an hourly basis or according to a fixed schedule adopted by the LEA. Necessary adjustments must be made in salaries for any variations in working hours resulting from an abbreviated or extended working day.

## Retirement, Social Security, Hospitalization and Disability Insurance

The same eligibility requirements for membership in the Retirement System apply to persons employed and paid from migrant project funds as apply to other local employees of the administrative unit. The employer's cost of Retirement and Social Security for salaries paid from migrant funds is a proper charge to each migrant project. Hospitalization and Disability Insurance costs may be paid from migrant funds for persons employed in the migrant project provided such costs are paid from local funds for local employees.

## Workmen's Compensation

Persons employed and paid from migrant project funds should be included under the local workmen's compensation insurance policies. The premium cost on salaries paid from these funds is a proper charge to each project and is limited to the period covered by the project.

## Staff Travel

Reimbursement for travel in the performance of duties shall be in accordance with the policies adopted by the local board of education not in conflict with rules and regulations of the State Board of Education.

## Payment for Training of Personnel

Since training of personnel is considered essential to the success of migrant education programs and projects, use of funds for staff development is encouraged. It should be noted, however, that P. L. 89-750 is not oriented toward general improvement of manpower resources in migrant education, but rather to the adequate training of the project staff. In the preparation and strengthening of teachers of migrant children, use of funds from other Federal programs such as Title I of P. L. 89-10, as well as State and local funds, is suggested.

## BUDGET REVISION

Local educational agencies may find it necessary to revise certain budget items in their migrant project after the application has been approved by the State Director of Migrant Programs. Requests for budget revision are to be submitted on Form 18AA-292 in the following cases:

1. To increase the total amount approved for a project.
2. To decrease the total project budget to the amount actually expended and to return unexpended funds to the State at the completion of a project.
3. To transfer funds from one budgeted line item to another within the project.

The following requirements apply to all requests for budget revision:

1. Requests must be submitted to the State Migrant Office in three (3) copies.
2. Revisions must show only increases and decreases by codes in the proper columns.
3. There must be an explanation and a justification for each increase and/or decrease listed in the request.
4. If the request for revision includes additions or deletions to the equipment list, a revised equipment list must accompany the request for revision.
5. Requests for the approval of funds for the purchase of initial or replacement equipment must be fully justified in terms of its use in connection with proposed project activities and its needs for effective implementation of the project.

6. Any requests for revision must be related to the activities in the project. If the request for revision is due to changes in the project or any of the project activities, the narratives for such activities must be rewritten to include the changes reflected in the requested revision.

7. All copies of Form 18AA-292 must be signed by the Finance Officer of the administrative unit.

8. All requests for budget revisions must be submitted to the State Migrant Director and no action shall be taken under the request for revision until the request has been approved and returned to the school unit. *There can be no retroactive approval of budget revisions.*

9. If any part of the request for revision must be disapproved, the entire request will be returned to the school unit so that a new request may be prepared which will eliminate those items disapproved.

A sample copy of a budget revision showing the types of information required and the format to be followed can be found in this section.

## PRORATION AND DOCUMENTATION

The law requires all administrative units operating migrant programs to keep records relating to claims for Federal funds. There can be no Federal financial participation in overhead costs which are arrived at on a straight percentage basis unless there is a basis in fact for such percentage costs which can be documented and substantiated as directly related to the project. Supporting documentation for entries in the accounting records is very important.

When services are rendered to the migrant program by persons employed in the ESEA Title I program or other programs funded with Federal monies, the salary of the person rendering such service must be prorated. Such proration must be *based upon the amount of time* an individual actually devotes to the approved program and therefore must be documented by a before-the-fact statement of the estimated time that each employee will devote to the program, and an after-the-fact statement of the actual time that the employee devoted to the program. The statement of actual time devoted to the program must be signed by the responsible official. These documents must be available at the time of audit to support claims for part-time personnel in the migrant program.

Administrative units should insure that the total amount of time prorated among the various Federal-State programs to which a staff member is assigned does not exceed 100% of the time of such staff member.

### Documentation of Receipt of Materials and Equipment

Although in many cases formal receiving reports are not necessary, there must be a notation on the invoice, that such materials or equipment were received in good condition and in the quantities indicated on the invoice.

## Maintaining an Equipment Inventory

The Act requires that the title to property acquired under the migrant program shall be in the State Educational Agency which will be responsible for administering such property. Inventories of equipment purchased by administrative units must be maintained on all items for the useful life of the equipment or until some disposition of the equipment has been made.

## Accounting Procedures For Operation of Shared Transportation

In order to establish a budget amount for transportation, an estimated amount based on the percentage of children in each program may be used. This can be used only to establish a budget, as the cost to the migrant project will be derived from a different accounting method.

A few days after the opening of summer school, when attendance becomes more stable, an attendance record will be taken of the number of children from each program riding each bus. This attendance record should be taken several times during the summer session to see that the number of children riding each bus from each program is remaining constant. From the attendance figures a percentage is calculated for each bus of the number of migrant children and the number of children from the other program riding the bus.

Once the percentage is determined for each bus, it is then used as the basis for charging the migrant project and the other program for the cost of summer transportation. The bus driver's salary, the mileage, and insurance are all computed on the percentage determined for each bus.

Should a bus transport migrant children or the other program children solely, then the full cost of operating that bus would be charged to the appropriate program.

The reason the percentage must be computed on each bus is the variable percentage of children and the mileage driven for each bus. The computations must be submitted when the charge is made to the migrant project.

## Accounting Procedures For Shared Janitorial Services

The accounting procedures to be followed in establishing the charge to the migrant project and the other program will be based on the square footage method of proration.

If one janitor is shared in a school, the basis of the charge to each program will be the number of square feet being used by each program in that school. A percentage can be determined from the amount of floor space used by each program and that same percentage used as a charge to each program for paying the janitor.

Janitorial supplies may be charged to the program based on the actual usage in order to clean the space occupied by the program. The cost of janitorial supplies may also be charged on the same basis as the percentage computed for the janitor.

## Accounting Procedures For Operation of Shared Lunchroom Program

Experience from previous summer programs may be used to estimate an amount to be used in your budget.

We suggest that the migrant project or the other program operate the lunchroom entirely and that the program which is not operating the lunchroom reimburse the other program on a per plate basis. For example, if the migrant project was operating the lunchroom, then Headstart could reimburse the migrant project for the number of meals served to its program. The per plate charge to the program not operating the lunchroom would cover all costs involved and the program paying this per plate charge would not pay for any other expenses of the lunchroom.

Another method would be for one program to operate the lunchroom and keep an accurate record of the actual total costs. At the end of the project each program is charged its share of the total cost by dividing the total number of meals served into the total cost of operating the lunchroom and multiplying the cost per meal by the number of meals served.

It should be pointed out that in both methods, a record must be kept of the funds collected from teachers and other staff members for lunches and that these funds must reflect a reduction of the total cost of the lunchroom operation.

During the summertime, due to the small number of meals being served, the cost per plate will be higher than during the regular school program. The free commodities that are available during the summer may reduce the per plate cost to a realistic figure.

## Accounting Procedures For Paying Utilities in a Shared Program

The method to be used in charging each program for shared utilities will be the Time-Floor-Area method of proration. First, compute the total floor space used by each program. Next, compute the time each program is in operation during the day. The reason the time is used in the computations rather than just the floor area percentages, is the length of time each program may operate during the day. The longer the program during the day the more consumption of utilities.

## AUDITS

All financial activities under this program are subject to audit at the local, State and Federal levels. Audits by Federal agencies will normally be limited to the State. If the Federal Government should determine that the State agency's control has been such that records at the State level are not adequate, Federal agency auditing may be extended to the LEA.

Project expenditure records will be audited locally by the person or firm that makes the local audit of the administrative unit. Such audits may be done as a regular part of the local school audit procedure prescribed by State laws or regulations.

## Standards for Local Audits

Local agency audit programs should be developed in accordance with generally accepted auditing standards, with due consideration for Federal policies governing the use of grant funds as well as State or local policies and procedures.

*The local audit report must include separate financial schedules or statements identifying receipts and expenditures applicable to the project and appropriate statements certifying them as being true.*

It is essential that specific audit procedures be followed by the auditor to verify that:

1. There is proper accounting of funds disbursed by the administrative unit.
2. Payments reported by the administrative unit were actually made to the vendors, contractors, and employees, and that they conform to applicable laws and regulations, including procurement requirements.
3. Refunds, discounts, etc., were properly credited to the specific programs as reductions of gross expenditures.
4. Payments are supported by adequate evidence of the delivery of goods or performance of services.
5. Obligations reported were actually incurred during the fiscal year or project period for which the project was approved and, upon liquidation, were properly adjusted.
6. The same item is not reported as an expenditure for 2 or more years, e.g., obligations in one year and payment in another.
7. All obligations claimed for federally supported Title I migrant projects were made for properly approved projects and are easily identifiable with these projects.
8. State, Federal, and local agency rules applicable to equipment records and control are followed.
9. Costs, such as salaries, travel, etc., are correctly prorated.
10. The sources of funds expended for federally reimbursed projects were stated correctly, and that the same expenditures were not claimed under more than one Federal program.
11. There is proper accounting or prompt return of unexpended or unearned Federal funds which were advanced or overpaid.
12. The audit report reflects outstanding obligations as of June 30 or August

31, whichever the case may be, in sufficient detail to permit identification of subsequent payments. Such obligations should be compared with reports submitted by the local agency to the State agency.

The audit report should be properly certified by the auditor to the effect that the procedures used verify and otherwise substantiate his findings.

Local educational agencies must provide sufficient information for the local auditor regarding the requirements and limitations of the program to enable him to certify as to the eligibility of the expenditures reported.

The audit report must contain sufficient specific information to permit reconciliation with amounts shown on the records in the State Office, and assurance that such reconciliation is actually made.

Exceptions reported by the auditor must be brought to the attention of officials in the State office responsible for the operation of the program, and appropriate adjustments or other administrative actions must be taken by such officials.

### Availability of Audits to Federal Agencies

A copy of each local audit report filed with the State Board of Education will be reviewed by the staff of the Division of Auditing and Accounting and will be made available to auditors of Federal agencies. To the extent that these reports are complete and adequate, they may be found sufficient to meet the requirements of Federal auditors. However, where such reports are found to be inadequate, local project expenditure records must be made available as required to the Federal auditors. When necessary, the local auditor will be requested to furnish information from his working papers.

### Audit Exceptions

An audit exception is a determination by the U. S. Commissioner of Education that an item questioned by the auditor is not properly chargeable to the program and should be disallowed. The administrative unit must replace from local funds any funds represented by an audit exception on a migrant project. Each administrative unit should take steps to assure that only expenditures which are made in accordance with the rules and regulations and project application are charged to the project and paid from Federal funds.

## FISCAL REPORTS

### Disbursement and Estimated Requirements of Federal Funds

Form 18AA-67, "Disbursement and Estimated requirement of Federal Funds by a local educational Agency" is to be submitted monthly. A schedule of weekly reporting dates will be furnished by the Controller's office. A report must be submitted on each reporting date indicated for each active project regardless of whether or not additional funds are required. A separate request must be submitted for funds to be advanced for migrant projects approved in different fiscal years.

## Monthly Record of Project Transactions

Form 18AA-68, "Record of Project Transactions" must be filed with the Division of Auditing and Accounting on or before the fifth (5th) day of the month following the disbursements of funds. The amount of disbursements reported on this form must be in agreement with the disbursements reported on form 18AA-67 filed at the end of the monthly reporting period.

All documents--purchase orders, invoices, expense reports, etc. -- are to be submitted in the same order as recorded on the "Record of Project Transactions." When invoices and the related purchase orders are submitted with the same report, they should be stapled together and filed in order by payment date and voucher number. Invoices submitted that apply to more than one purchase order should be duplicated and individual copies attached to each order paid and the items related to that order identified.

All invoices must be verified as to correctness and marked or stamped to show that they have been paid, the amount paid, date of payment, voucher number, related purchase order number, that the materials have been received in the quantities billed, and that the items were received in good condition. Purchase orders should carry the State Contract Number when applicable. When purchases must be placed through the Division of Purchase and Contract, a copy of the letter authorizing the purchase should be submitted with a copy of the purchase order.

If in any month there are no transactions in a project, a report should be submitted that states, "No transactions for the month of ________."

## Project Financial Completion Report

Form 18AA-69, "Project Financial Completion Report," will be used as both a preliminary and final financial project report and will be filed for each Title I Migrant project with the Controller, State Board of Education. This report will be filed on or before September 15 for each project approved under the appropriation for the prior fiscal year. The report will be prepared as of August 31 and will include all project expenditures up to and including August 31. *"Expenditures" include disbursements plus unliquidated obligations outstanding as of August 31.*

If there are no unliquidated obligations outstanding on a project as of August 31, and the project has been concluded, the report for that project should be designated as "Final" in the space provided at the top of page 1 of the form and no further financial reports will be required on that project. If there are unliquidated obligations outstanding on a project as of August 31, the report for that project will be designated as "Preliminary." A Final Project Completion Report would then be filed with the Controller's office within 15 days following the liquidation of all obligations for the project. A "Final" report must be filed by June 30 of the fiscal year following the fiscal year in which the project was approved. Financial completion reports on carryoverprojects must be filed either as preliminary or final reports as of June 30 of the fiscal year during which the project was approved. Final reports in all instances must be filed within 15 days following the liquidation of all obligations for the project.

The "Project Financial Completion Report" is to be prepared from the ledger accounts established and maintained for each project. Before this report is prepared, it should be determined that all "Subsidiary Expenditure Accounts" are in balance with the "Total Project Control" account for the project. It should also be determined that the ledger accounts are in balance with the "Record of Project Transactions," Form 18AA-68.

Below is detailed information concerning certain items on the Project Financial Completion Report:

Item A: Federal Funds Received as Advancement on this Project: The amount entered here should be the total obtained by running a tape on the *Cash Received* (Column 3) as shown on the "Total Project Control" account (Form 18AA-71).

Item B: Federal Funds on Hand: The amount entered here should be the last total recorded in the *Cash Balance* (Column 6) as shown on the "Total Project Control" account (Form 18AA-71). This should agree with the amount arrived at by deducting the Total Disbursements (Item D of this report) from the Federal Funds Received as Advancement on this Project (Item A of this report).

Item C: Unobligated Cash Balance: The amount entered here should be obtained by deducting the Amount of Unpaid Obligations (Item E of this report) from the Federal Cash on Hand (Item B of this report).

Item D: Total Disbursements: The amount entered here should be obtained from the last amount entered in *Disbursements-Year-To-Date* (Column 5) of the "Total Project Control" account (Form 18AA-71).

Item E: Amount of Unpaid Obligations: The amount entered here will be obtained from the last amount shown for *Outstanding Obligations at Posting Period* (Column 8) as shown on the "Total Project Control" account (Form 18AA-71). (This area would be for use on a "Preliminary" Report only - on a Final Report this amount would be zero).

Item F: Total Project Cost: The amount entered here will be obtained by adding the Total Disbursements (Item D of this report) and the amount of Unpaid Obligations (Item E of this report).

Project Expenditures: *Detailed Amount of Federal Expenditure:* The amounts to be entered in this column should be obtained by adding the last amount shown in the *Outstanding Obligations to Date* (Column 5), and the *Disbursements - Year-To-Date* (Column 7), on the "Subsidiary Ledger of Detailed Expenditure Accounts" (Form 18AA-74) for each Federal account code and name.

Form IBAA-70

______________________________
(ADMINISTRATIVE UNIT)

ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 - TITLE I

ALLOTMENT CONTROL LEDGER

Maximum Basic Grant $__________

FY__________
(FOR WHICH PROJECT WAS APPROVED)

| (1) | (2) | (3) | (4) | (5) | (6) | (7) |
|---|---|---|---|---|---|---|
| Date | Reference | Projects Approved | | | | Balance of Maximum Eligibility For Grant Use |
| | | Project Number | | Amounts | | |
| | | Local | State | This Project | Year-to-Date | |
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## Instructions for Maintaining the Allotment Control Ledger - Form 18AA-70

The "Allotment Control Ledger" is to be maintained by the administrative unit to provide an overall control to assure that the total allotment of funds will not be exceeded by the amount of Project Applications submitted under Title I.

The maximum basic grant allotted to the administrative unit will be entered in the space provided at the top of the ledger card. The amount of the maximum eligibility for grant use will be entered in Column 7. This amount is determined from the financial data in the Project Application. The amount of the grant eligibility for use may be different from the maximum basic grant allotted to the administrative unit. The balance in Column 7 will be reduced by the detail postings of project approved as recorded in Column 5. Subsequent revisions in the amount of approved projects (either increases or decreases) must be reflected by entries in this ledger account.

Column 1: Record the posting date of the transaction.

Column 2: Indicate source document of posting information.

Column 3: Indicate the local assigned number for the project.

Column 4: Indicate the state assigned number for the project.

Column 5: Enter the amount of funds approved for each project. This amount will be deducted from the Balance of Maximum Eligibility for Grant Use (Column 7).

Column 6: The amounts in this column will be the accumulated total of the detail amounts posted in Column 5.

Column 7: The amount shown in this column at any time should represent the amount of funds available for additional projects.

Form 18AA-71
Rev. 9-74

## TOTAL PROJECT CONTROL

## ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 - TITLE I

FY ____________

| APPROVED PROJECT AMOUNT | |
|---|---|
| DATE | $ |
| REVISED APPROVALS & REVISED TOTAL | |
| DATE ____________ | $____________ |
| DATE ____________ | $____________ |
| DATE ____________ | $____________ |

______________________________________________
(Administrative Unit)

PROJECT NUMBER ______________________________
(Local) (State)

____________________ DATE APPROVED

____________________ DATE BEGINNING

____________________ DATE ENDING

| (1) | (2) | (3) | (4) | (5) | (6) | (7) | (8) | (9) |
|---|---|---|---|---|---|---|---|---|
| | | CASH TRANSACTIONS | | | | | OUTSTANDING OBLIGATIONS AT POSTING PERIOD | UNOBLIGATED PROJECT BALANCE |
| | | | DISBURSEMENTS | | | | | |
| DATE | REFERENCE | CASH RECEIVED | THIS POSTING | YEAR TO DATE | CASH BALANCE | BALANCE OF FUNDS TO BE RECEIVED ON PROJECT | | |
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## Instructions for Maintaining Project Control Ledger - Form 18AA-71

Columns 4, 8 and 9 of this ledger will be posted periodically from subtotals drawn on the "Record of Project Transactions" (Form 18AA-68). In posting the periodic subtotal from the "Record of Project Transactions", the Amounts Paid (Column 7) will be posted to Disbursements (Columns 4 and 5 of this account). The posting in Column 4 will cover all disbursements made since the last posting. Column 8 (Outstanding Obligations) will be posted from Column 6 of the "Record of Project Transactions" and represents the outstanding obligations at the close of the posting period. This ledger account must balance with the disbursements, outstanding obligations, and unobligated project balance as shown on the "Record of Project Transactions."

Column 1: Record the posting date of the transaction.

Column 2: Indicate source of posting information.

Column 3: Record the amount of funds received on this project. The amounts entered in this column will be added to the Cash Balance (Column 6) and will be deducted from Balance of Funds to be Received on Project (Column 7).

Column 4: The posting to this column will be obtained from the periodic subtotal of Amounts Paid (Column 7 as reflected on the "Record of Project Transactions"). Any refunds made to the N. C. State Board of Education for cash on hand in excess of current requirements will be entered as a reduction of cash received, reducing the Cash Balance and increasing the Balance of Funds to be Received.

Column 5: The amounts in this column will be the accumulated total of detail amounts posted in Column 4.

Column 6: The amounts in this column will be accumulated by adding the detail amounts posted in Column 3 and deducting the detail amounts posted in Column 4, or the Year-to-Date total in Column 5.

Column 7: The initial amount approved for the project will be posted in this column and such an amount will be reduced by the detail posting of Cash Received as recorded in Column 3. Subsequent amounts approved for a project (either increases or decreases) must be reflected by notation in the Reference Section (Column 2) and added or deducted for the existing balance in Column 7.

Column 8: The amounts posted in this column will be obtained from the periodic subtotals as reflected on the "Record of Project Transactions" and will be an updated balance as of the end of the posting period.

Column 9: The amounts posted to this column will come from the monthly subtotals as reflected on the "Record of Project Transactions" and will be the updated year-to-date balance as shown on that report for the Available Balance (Column 9).

Form 18AA-73
Rev. 9-74

## BUDGET CONTROL LEDGER

## ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 - TITLE I

FY ________

________________________ (Administrative Unit)

________________________ (Federal Code Series)

PROJECT NUMBER ________________________
(Local) (State)

| (1) | (2) | (3) | (4) | (5) | (6) | (7) |
|---|---|---|---|---|---|---|
| | | | DISBURSEMENTS | | | |
| DATE | REFERENCE | APPROVED BUDGET | THIS POSTING | YEAR TO DATE | OUTSTANDING OBLIGATIONS | UNOBLIGATED BUDGET BALANCE |
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## Instructions For Completion of Budget Control Ledger - Form 18AA-73

A "Budget Control Ledger" account should be established for each budget item contained in the approved project budget.

Each of the "Budget Control Ledger" accounts will reflect on a daily basis the total transactions which have been posted to the "Subsidiary Ledger of Detail Expenditure Accounts" within each respective Federal Code Series. (For example, the daily postings to detail expenditures account object code 100, 300, 400, etc., should be totaled and posted to "Budget Control Ledger" account. The daily postings to detail expenditure account object codes 121 and 174, etc., would be totaled and posted to the "Budget Control Ledger" account 100-salaries.)

Column 1: Record the posting date of the transaction.

Column 2: Indicate source of posting information.

Column 3: Record the amount as shown on your project application which has been approved by the Department of Public Instruction for a specific project.

Column 4: The posting to this column will be obtained by running an adding machine tape on each amount posted in the Amount Paid (Column 6) of the "Subsidiary Ledgers of Detail Expenditure Accounts" within each Code Series.

Column 5: The amounts in this column will be the accumulated total of the detail amounts posted in Column 4. (As proof that the detail amounts have been accumulated correctly, an adding machine tape could be run on Disbursements Year-to-Date (Column 7) of the "Subsidiary Ledger of Detail Expenditure Account" within each respective Code Series.)

Column 6: The postings to this column will be obtained by running an adding machine tape on the last amount shown in Outstanding Obligations to Date (Column 5) of the "Subsidiary Ledger of Detail Expenditure Accounts" within each Code Series.

Column 7: The amount to be entered in this column will be obtained by the following calculations:

Deduct the last amount shown for Disbursements Year-To-Date (Column 5) and the last amount shown for Outstanding Obligations (Column 6) from the total approved budget amount as entered in the Approved Budget (Column 3).

At least once a week the last amount shown for the Unobligated Balances (Column 7) on all "Budget Control Ledgers" should be totaled and this total balanced to the last entry in the Available Balance (Column 9) as shown on the "Record of Project Transactions." Should a discrepancy exist, the error must be found and corrected by rechecking the daily Unobligated Budget Balances (Column 7) as shown on the "Budget Control Ledgers" to the Available Balance (Column 9, of the same date) as recorded on the "Record of Project Transactions."

Form 18AA-74
Rev. 9-74

## SUBSIDIARY LEDGER
## OF DETAIL EXPENDITURE ACCOUNTS
## ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 - TITLE I

FY ____________

ACCOUNT NAME ________________________

________________________
(Administrative Unit)

PROJECT NUMBER ________ | ________
(Local) (State)

ACCOUNT CODE ____________ ____________
(State) (Federal)

| (1) | (2) | (3) | (4) | (5) | (6) | (7) | (8) |
|---|---|---|---|---|---|---|---|
| | | | OBLIGATIONS | | DISBURSEMENTS | | |
| DATE | REFERENCE | CON-TROL | AMOUNTS OBLIGATED AND (LIQUIDATED) | OUTSTANDING OBLIGATIONS TO DATE | AMOUNTS PAID | DISBURSEMENTS YEAR TO DATE | ITEM BUDGET BALANCE |
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## Instructions For Maintenance of Subsidiary Ledger of Detail Expenditure Accounts Form 18AA-74

A detail expenditure account should be maintained by the administrative unit for each active expenditure account code on each approved project. The account codes should govern the expenditure accounts that are established. At the end of the fiscal year when filing the financial report with the Controller's Office, each administrative unit must include disbursements made from Title I migrant funds. These disbursements may be secured from these accounts by using the Uniform Account Codes. At the close of each project, a "Project Financial Completion Report" must be filed. The information for this report may be secured by using the Uniform Account Codes.

Column 1: Entries in this column must be made daily as the transactions occur; therefore, dates will appear in consecutive order. Enter the date of the issuance of each purchase order and the date of each voucher written. This column will also reflect the date of any cancelled purchase orders or any cancelled vouchers as well as the date of deposit for any refund of a prior disbursement.

Column 2: Enter the number of the purchase order at the time of issuance and again at the time of liquidation by payment or cancellation. Place parentheses () around the "purchase order number" for each transaction reflecting a liquidation or cancellation. Also enter the number of each voucher in this column. The payroll may be posted in summary totals for each account code and a sample reference notation would be "Payroll Date Ending ______________________________."

In the case of a voucher cancellation, enter the voucher number in parentheses(). Also, in the case of receipt of a cash refund of a prior disbursement, indicate in parentheses () the voucher number which represents the orginal disbursement and enter the word - REFUND.

Column 3: CONTROL - When an obligation is liquidated or cancelled, place a check mark (✓) beside the original entry for the obligation. This provides a visual reference to obligations not yet liquidated.

Column 4: Enter the amounts of all obligations incurred by the issuance of purchase orders. Also enter the amounts of obligations liquidated, either by payment or cancellation, and place these amounts in parentheses in this column.

At the time a purchase order is completely liquidated by either payment or cancellation, it should be indicated in this column that the entire amount of the purchase order has been completely liquidated regardless of the fact that the invoice submitted and the check issued may be more or less than the original amount obligated.

In the event of a partial delivery of a purchase order, resulting in a partial payment, the entire amount of the purchase order will be liquidated for Column 4, resulting in a decrease in "Outstanding Obligations to Date" (Column 5). The actual amount of the payment will be recorded in Column 6, resulting in an updated expenditure total in Column 7. Immediately following this entry, a new entry with the same purchase order number will be established in Column 2 for the remaining unfilled items on the purchase order and the remaining balance of the obligation for those items will be recorded in Column 4, resulting in an increase in "Outstanding Obligations To Date" (Column 5).

Column 5: The amounts in this column will be the accumulated new total of the detail amounts posted in Column 4.

The amount shown in this column at any time should represent the unpaid amounts of the outstanding purchase orders.

Column 6: Enter the amount of each voucher issued in this column. This column will reflect in parentheses () as a minus figure any cancelled voucher or any refund of a prior disbursement. The payroll may be posted in summary totals for each account.

Column 7: The amounts in this column will be the accumulated total of the detail amounts posted in Column 6.

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## PART III - BUDGET INFORMATION

### SECTION A - BUDGET SUMMARY

| GRANT PROGRAM, FUNCTION OR ACTIVITY (a) | FEDERAL CATALOG NO. (b) | ESTIMATED UNOBLIGATED FUNDS FEDERAL (c) | ESTIMATED UNOBLIGATED FUNDS NON-FEDERAL (d) | NEW OR REVISED BUDGET FEDERAL (e) | NEW OR REVISED BUDGET NON-FEDERAL (f) | NEW OR REVISED BUDGET TOTAL (g) |
|---|---|---|---|---|---|---|
| 1. Instructional Services | 13.429 | $ | $ | $ | $ | $ |
| 2. Support Services | 13.429 | | | | | |
| 3. Staff Development | 13.429 | N/A | N/A | | N/A | |
| 4. Other | 13.429 | | | | | |
| 5. TOTALS | | $ | $ | $ | $ | $ |

### SECTION B - BUDGET CATEGORIES

| 6. OBJECT CLASS CATEGORIES | GRANT PROGRAM, FUNCTION OR ACTIVITY (1) Instructional Services | (2) Support Services | (3) Staff Development | (4) Other | TOTAL (5) |
|---|---|---|---|---|---|
| a. PERSONNEL | $ | $ | $ | $ | $ |
| b. FRINGE BENEFITS | | | | | |
| c. TRAVEL | | | | | |
| d. EQUIPMENT | | | | | |
| e. SUPPLIES | | | | | |
| f. CONTRACTUAL | | | | | |
| g. CONSTRUCTION | | | | | |
| h. OTHER | | | | | |
| i. TOTAL DIRECT CHARGES | | | | | |
| j. INDIRECT CHARGES | | | | | |
| k. TOTALS | $ | $ | $ | $ | $ |
| 7. PROGRAM INCOME | $ N/A | $ N/A | $ N/A | $ N/A | $ N/A |

## INSTRUCTIONS FOR PART III - BUDGET INFORMATION

Following are instructions for local educational agencies to follow in completing the budget information form, OMB No. 80-R0186. As many of the spaces on this form as possible will be completed by the State Migrant office.

### Section A - Budget Summary

Item 1, Column (e) and (g) - Enter the total from item 6, line k, Column (1).
Item 2, Column (e) and (g) - Enter the total from item 6, line k, Column (2).
Item 3, Column (e) and (g) - Enter the total from item 6, line k, Column (3).
Item 4, Column (e) and (g) - Enter the total from item 6, line k, Column (4).
Item 5, Column (e) and (g) - Enter the total from item 6, line k, Column (5).

### Section B - Budget Categories

Item 6, Column (1) - Instructional Services

Enter proposed expenditures that have been budgeted to lines a through h. The only function codes used to enter information in this column are 5200 and 5910.

Column (2) - Support Services

Enter proposed expenditures that have been budgeted to lines a through h. The only function codes used to enter information in this column are 6110, 6120, 6130, 6140, 6150, 6160, 6190, 6210, 6220 and 6910.

Column (3) - Staff Development

Enter proposed expenditures that have been budgeted to lines a through h. The only function and object codes to be used in entering information in this column are function and object codes 6210-51-312 and 6640-51-312.

Column (4) - Other

Enter proposed expenditures that have been budgeted to lines a through h and j. The only function codes to be used in entering information to this column are 6320, 6410, 6340, 6550, 6560, 6580, 6620, 6630, 6660, 6910 and 8100.

Column (5) - Total

Enter line totals.

Enter all column totals on lines i and k. The amount entered in column (5) line k, after computation of the above entries, must equal the grand total of the project budget as indicated in item 30 of the project application or the budget revision as indicated on Form 18AA-292.

Item 7, DOES NOT APPLY

# NORTH CAROLINA PUBLIC SCHOOLS

# UNIFORM CHART OF ACCOUNTS

Prepared by

Controller's Office
State Board of Education

**SUBJECT:** Chart of Accounts Procedures
Coding Structure: Purpose Codes

Page 1 of 7

| | | |
|---|---|---|
| PROCEDURE NO. | | 05-25 |
| EFFECTIVE | | |
| SUPERSEDES | | |
| APPROVALS | | DISTRIBUTION NO |
| NCLGC | St. Bd. of Ed. | |

Purpose means the reason for which a thing exists or is used. Purpose includes the activities or actions that are performed to accomplish the objectives of a Local Education Agency. For budgeting and accounting purposes, expenditures of a Local Education Agency are classified into five purposes as follows:

| | |
|---|---|
| 5000 | Instructional Programs |
| 6000 | Supporting Services Programs |
| 7000 | Community Services Programs |
| 8000 | Non-Programmed Charges |
| 9000 | Capital Outlay |

The "purpose dimension" has four (4) digits—

5 0 0 0 Instructional Programs
1 2 3 4

The "purpose dimension" is broken down into a function level at the second digit and, where appropriate, into a sub-function level at the third digit.

INSTRUCTIONAL PROGRAMS (5000)

Activities dealing directly with the teaching of pupils, or the interaction between teacher and pupils. Teaching may be provided for pupils in a school classroom, in another location such as a home or hospital, and in other learning situations such as those involving co-curricular activities. It may also be provided through some other approved medium such as television, radio, telephone, and correspondence. Included here are the activities of aides or assistants of any type (clerk, graders, teaching machines, etc.) which directly assist in the instructional process.

5100 Regular Instructional Programs

Instructional activities designed primarily to prepare pupils for activities as citizens, family members, and workers, as contrasted with programs designed to improve or overcome physical, mental, social and/or emotional handicaps. Regular instructional programs include grades K - 12.

5200 Special Instructional Programs

Instructional activities designed primarily to deal with pupils having special needs. The Special Instructional Programs include services for the Gifted and Talented; Mentally Retarded; Physically Handicapped; Emotionally Disturbed; Culturally Different; Pupils with Learning Disabilities; and Special Programs for other types of pupils.

p.122 blank

|  |  |  |
|---|---|---|
| **Subject**: Chart of Accounts Procedures - Coding Structure: Purpose Codes | | |
| **Effective** | **Supersedes** | **Procedure No.** 05-25 |

5300 Adult Education Instructional Programs
Instructional activities designed to develop knowledge and appreciation for special interests, or to enrich the aesthetic qualities of life.

5400 Co-Curricular Instructional Programs
Experiences comprised of a group of school-sponsored activities, under the guidance or superivsion of qualified adults, designed to provide opportunities for pupils to participate in such experiences on an individual basis, in small groups, or in large groups at school events, public events or a combination of these for such purposes as motivation, enjoyment, and improvement of skills. In practice, participation usually is not required and credit usually is not given. When participation is required or credit is given, the activity generally is considered to be a course.

Other Instructional Programs (5900)

5910 Other Instructional Programs - Employee Benefits
Employee Benefits for instructional personnel that are not included in State categorically funded programs. (Examples to be included are: Regular Instructional Programs, Special Instructional Programs - Exceptional Child and Learning Disabilities, and Federal Programs.)
Note: *Employee benefits may be prorated to each program at the discretion of the Local Education Agency on employees paid from local funds, provided it does not conflict with Federal or State policies and regulations.*

SUPPORTING SERVICES (6000)
Supporting services are those services which provide administrative, technical, personal (such as guidance and health), and logistical support to facilitate and enhance Instruction. Supporting Services exist to sustain and enhance Instruction, rather than as entities within themselves.

Pupil Support Services (6100)

6110 Direction of Pupil Support Services
Activities concerned with directing and managing the pupil support services as a group.

6120 Attendance - Social Work Services
Activities which are designed to improve pupil attendance at school and which attempt to prevent or solve pupil problems involving the home, the school, and the community.

**Subject:** Chart of Accounts Procedures - Coding Structure: Purpose Codes

**Effective**

**Supersedes**

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6130 Guidance Services

Activities of counseling pupils and parents, providing consultation with other staff members on learning problems, assisting pupils in personal and social development, assessing the abilities of pupils, assisting pupils as they make their own educational and career plans and choices, providing referral assistance, and working with other staff members in planning and conducting guidance programs for pupils.

6140 Health Services

Physical and mental health services which are not direct instruction. Included are activities that provide pupils with appropriate medical, dental, and nursing services.

6150 Psychological Services

Activities concerned with administering psychological tests and interpreting the results, gathering and interpreting information about pupil behavior, working with other staff members in planning school programs to meet the special needs of pupils as indicated by psychological tests, and behavioral evaluation and planning and managing a program of psychological services, including psychological counseling for pupils, staff, and parents.

6160 Speech, Pathology and Audiology Services

Activities which have as their purpose the identification and assessment of pupils with impairments in speech, hearing, and language.

6190 Other Pupil Support Services

Activities concerned with pupil support services other than those classified above.

Instructional Staff Support Services (6200)

6210 Improvement of Instructional Services

Activities designed primarily for assisting instructional staff in planning, developing, and evaluating the process of providing learning experiences for pupils. These activities include curriculum development, techniques of instruction, child development and understanding, staff training, etc.

6220 Educational Media Services

Activities concerned with the use of all teaching and learning resources, including hardware and content materials. Educational media is defined as any device, content material, method, or experience used for teaching and learning purposes. These include printed and nonprinted sensory materials.

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| **Subject** Chart of Accounts Procedures - Coding Structure: Purpose Codes | | |
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General Administration Support Services (6300)

6310 Board of Education
Activities of the elected or appointed body which have been created according to State law and vested with responsibilities for educational planning and policy, i.e., the local board of education.

6320 Executive Administration
Activities associated with the overall general administrative or executive responsibility for the entire Local Education Agency.

School Administration Support Services (6400)

6410 Office of the Principal
Activities concerned with directing and managing the operation of schools. Included are the activities performed by the principal, assistant principals, and other assistants in general supervision of all operations of the school; evaluation of the staff members of the school; assignment of duties to staff members; supervision and maintenance of the school records; and coordination of school instructional activities with instructional activities of the Local Education Agency, and clerical staff support for these activities. The salary supplement paid from State funds for Building Principals and Assistant Principals would not be included here, but would be included under Teacher Salary Code 5100-121. *Note: Non-teaching assistant principal should be coded 6410-01-115.*

Business Support Services (6500)

6510 Direction of Business Support Services
Activities concerned with directing and managing the business support services as a group.

6520 Fiscal Services
Activities concerned with the fiscal operations of the Local Education Agency in the areas of budgeting, receiving and disbursing cash, financial accounting, payroll, inventory control and internal auditing.

6530 Facilities Acquisition and Construction Services
Activities concerning the planning and administering of Capital Outlay projects.

6540 Operation of Plant
Activities concerned with housekeeping chores, utility product consumption and communication necessary for the clean and healthy occupation of the physical plant.

**Subject** Chart of Accounts Procedures - Coding Structure: Purpose Codes

| **Effective** | **Supersedes** | **Procedure No.** 05-25 |
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6550 Transportation of Pupils
Activities concerned with the conveyance of pupils to and from school, as provided by State law. Included are trips between home and school and trips to school activities. (Trips for school activities will be reimbursed by the Local Education Agency on a cost per mile basis.)

6560 Food Services
Activities concerned with providing food to pupils and staff in a school or Local Education Agency, including the preparation and serving of regular and incidental meals, lunches, or snacks in connection with school activities, and the delivery of food.

6570 Internal Services
Activities concerned with buying, storing, and distributing supplies, furniture, and equipment, and with duplicating and printing for the Local Education Agency.

6580 Maintenance of Plant
Activities concerned with repairs and upkeep of physical plant consisting of building structure, mechanical equipment, underground utility lines and equipment, and surrounding grounds.

6590 Other Business Support Services
Activities concerned with business support services other than those classified above.

Central Support Services (6600)

6610 Direction of Central Support Services
Activities concerned with directing and managing the central support services as a group.

6620 Planning, Research, Development, and Evaluation Services
Activities associated with conducting and managing systemwide programs of planning, research, development, and evaluation for a Local Education Agency.

6630 Information Services
Activities concerned with writing, editing, and other preparation necessary to disseminate educational and administrative information to pupils, staff, managers, or to the general public through direct mailing, the various news media, or personal contact.

6640 Staff Services
Activities concerned with maintaining an efficient staff for the Local Education Agency including such activities as recruiting and placement, staff transfers, in-serivce training for non-instructional staff, health services, and staff accounting.

| Subject Chart of Accounts Procedures - Coding Structure: Purpose Codes | | |
|---|---|---|
| Effective | Supersedes | Procedure No. 05-25 |

6650 Statistical Services
Activities concerned with manipulating, relating, and describing statistical information.

6660 Data Processing Services
Activities concerned with preparing data for storage, storing data, and retrieving data for reproduction as information for management and reporting.

6690 Other Central Support Services
Activities concerned with central support services other than those classified above.

Other Supporting Services (6900)

6910 Other Supporting Services - Employee Benefits
Employee benefits for supporting personnel that are not included in State categorically funded programs. (Examples to be included are: Attendance Counselors, Instructional Staff Support Services Programs - Supervisors, General and School Administration, Business Administration, and Federal Programs.)

Note: *Employee benefits may be prorated to each program at the discretion of the Local Education Agency on employees paid from local funds, provided it does not conflict with Federal or State policies and regulations.*

COMMUNITY SERVICES (7000)
Activities which are not directly related to the provision of education for pupils in a Local Education Agency. These include services such as community recreation programs, civic activities, public libraries, programs of custody and care of children, and community welfare activities provided by the Local Education Agency for the community as a whole or some segment of the community.

7100 Regular Community Services
Regular community service programs as defined above.

Other Community Services (7900)

7910 Other Community Services - Employee Benefits
Employee benefits for all community service programs.

Note: *Employee benefits may be prorated to each program at the discretion of the Local Education Agency on employees paid from local funds, provided it does not conflict with Federal or State policies and regulations.*

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NON-PROGRAMMED CHARGES (8000)

Conduit-type (outgoing transfers) payments to other Local Education Agencies or administrative units in the State or in another State, and transfers from one fund to another fund in the Local Education Agency.

8100 Payments to Other Governmental Units and Transfers of Funds

Conduit-type payments to Local Education Agencies, generally for tuition and transportation, for services rendered to pupils residing in the paying Local Education Agency and transfers from one fund to another fund in a Local Education Agency.

Other Non-Programmed Charges (8900)

8920 Other Non-Programmed Charges - Contingency

Includes appropriations for use in circumstances not completely foreseen. As monies are needed from this item, budget amendments should be made to transfer monies to the appropriate operating function.

CAPITAL OUTLAY (9000)

The nine thousand (9000) series codes should be used only for recording capital outlay expenditures in the Capital Outlay Fund and the School Food Service Fund.

9100 Category I Projects

Projects including: Acquisition of real property and acquisition, construction, reconstruction, enlargement, renovation or replacement of buildings and other structures for school purposes. The last two digits can be used to identify the projects within this category.

9200 Category II Projects

Projects including: Acquisition or replacement of furnishings and equipment. The last two digits can be used to identify the projects within this category.

9300 Category III Projects

Projects including: Acquisitions of school buses, activity buses, and other motor vehicles. The last two digits can be used to identify the projects within this category.

Other Capital Outlay (9900)

9920 Other Capital Outlay - Contingency

Includes appropriations for use in circumstances not completely foreseen. As monies are needed from this item, budget amendments should be made to transfer monies to the appropriate Capital Outlay category.

NORTH CAROLINA LOCAL GOVERNMENT COMMISSION
UNIFORM ACCOUNTING SYSTEM FOR SCHOOL ADMINISTRATIVE UNITS
PROCEDURES MANUAL

**SUBJECT:** Chart of Accounts Procedures
Coding Structure: Program Report Codes

**Page** 1 **of** 2

| | | | |
|---|---|---|---|
| **PROCEDURE NO.** | | 05-30 | |
| **EFFECTIVE** | | | |
| **SUPERSEDES** | | | |
| **APPROVALS** | | **DISTRIBUTION** | **NO.** |
| **NCLGC** | **St. Bd. of Ed.** | | |
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Because of the manner of funding, and to meet certain requirements of Local, State and Federal regulations and laws, it was necessary to design special report forms. Program Report Codes provide a means of grouping expenditures for the preparation of these reports. For example, all expenditures relating to Driver Training and Safety Education would have a Program Report Code of 12.

The program report codes listed below identify each Federal and State funded program which requires a report summarizing revenues and expenditures and will be used regardless of the fund the program is budgeted in.

Expenditure of local revenues in the Local Current Expense Funds (i.e., county appropriations, supplemental taxes, intangible taxes, fines and forfeitures, etc.) will be coded using a program report code 01 "Regular School Program" or in the discretion of the Local Education Agency may use: (1) program report codes 80-99 which are unassigned for their use or (2) program report codes 02 through 78 which are assigned for specific Federal and State funded programs.

Program Report Code 79 "Special Allotment (specify)" will be used for any Federal Grants received by the Local Education Agency for which there is no specifically designated code. At any time that a new account becomes common among units, you will receive notification from the State office of the code number to use. Until such time, for all Federal Grants that you are not given a specific report code, use Program Report Code 79 and specify the name of the grant for budgeting and reporting purposes.

| | |
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| 01 | Regular School |
| 02 | Kindergarten |
| 03 | Physical Education (K-6), Per Capita Funds |
| 04 | Instructional Personnel, Per Capita Funds |
| 05 | Exceptional Child |
| 06 | Learning Disabilities |
| 07 | Support Personnel, Per Capita Funds |
| 08 | School Psychologist - Exceptional Child |
| 09 | Clerical Assistants in Schools |
| 10 | Librarian Special Allotment |

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**NORTH CAROLINA LOCAL GOVERNMENT COMMISSION**
**UNIFORM ACCOUNTING SYSTEM FOR SCHOOL ADMINISTRATIVE UNITS**
**PROCEDURES MANUAL** **Page** 2 **of** 2

**Subject** Chart of Accounts Procedures - Coding Structure: Program Report Codes

**Effective**
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| | |
|---|---|
| 11 | Primary Reading Program |
| 12 | Driver Training and Safety Education |
| 13 | Occupational Education - Regular Man Months, Equipment, and Materials |
| 14 | Occupational Education - non-Matching |
| 15 | Occupational Education - Handicapped |
| 16 | Occupational Education - Special Needs |
| 17 | Occupational Education - Research |
| 18 | Occupational Education - Innovation |
| 19 | Occupational Education - Consumer & Homemaking |
| 20 | Occupational Education - Cooperative |
| 21 | Occupational Education - Middle Grade |
| 22 | Occupational Education - Work Study |
| 23 | Occupational Education - Extended Day Special Allotments |
| 24 | Occupational Education - EPDA |
| 25-26 | Reserved (for State level assignment only) |
| 27 | Testing & Evaluation |
| 28 | Professional Improvement of Teachers - Regular |
| 29 | Professional Improvement of Teachers - Exceptional Children |
| 30 | Professional Improvement of Teachers - Reading |
| 31 | Exceptional Children - Speech and Hearing Center |
| 32 | Exceptional Children - Instructional Materials |
| 33 | Learning Disabilities - Demonstration Centers |
| 34 | Trainable Mentally Handicapped |
| 35 | School Food Service - State Aid Supervisor |
| 36-47 | Reserved (for State level assignment only) |
| 48 | Public School Facilities Bond - 1963 |
| 49 | Public School Facilities Bond - 1973 |
| 50 | ESEA - Title I - Low Income |
| 51 | ESEA - Title I - Migrant |
| 52 | ESEA - Title I - Handicapped |
| 53-55 | Reserved (for State level assignment only) |
| 56 | ESEA - Title II - School Library Resources |
| 57 | ESEA - Title IV - Part B - School Libraries |
| 58 | ESEA - Title IV - Part C - Innovation |
| 59 | ESEA - Title IV - Part C - Strengthening |
| 60 | ESEA - Title VI - Part B - Handicapped |
| 61 | ESEA - Title VI - Part C - Deaf & Blind |
| 62 | ESEA - Title VI - Part D - Staff Development |
| 63-69 | Reserved (for State level assignment only) |
| 70 | Impact Area Grants |
| 71 | Head Start |
| 72 | Emergency School Assistance Act |
| 73 | Work Study |
| 74 | Neighborhood Youth Corps |
| 75 | Emergency Employment Act |
| 76 | Indian Education Act |
| 77 | Civil Rights Act - Title IV |
| 78 | Civil Rights Act - Title VI |
| 79 | Special Allotment (Specify) |
| 80-99 | Unassigned (for Local Education Agency Assignment) |

## NORTH CAROLINA LOCAL GOVERNMENT COMMISSION
## UNIFORM ACCOUNTING SYSTEM FOR SCHOOL ADMINISTRATIVE UNITS
## PROCEDURES MANUAL

SUBJECT: Chart of Accounts Procedures
Coding Structure: Object Codes

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PROCEDURE NO. 05-35
EFFECTIVE
SUPERSEDES
APPROVALS
DISTRIBUTION NO

| NCLGC | St. Bd. of Ed. | |
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Object means the service or commodity obtained as a result of a specific expenditures. Seven major object categories are used in our new Chart of Accounts:

| | |
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| 100 | Salaries |
| 200 | Employee Benefits |
| 300 | Purchased Services |
| 400 | Supplies and Materials |
| 500 | Capital Outlay |
| 600 | Other Objects |
| 700 | Transfers |

These broad categories are subdivided to obtain more detailed information about objects of expenditures. A three digit serial number is used to provide detailed information.

SALARIES (100)

Amounts paid to persons who are employed by the Local Education Agency in a permanent, temporary or part-time position or one who substitutes for those in permanent positions.

Administration (110)

111 Superintendent

Include the salary of the person designated by a county or city board of education as the superintendent of the Local Education Agency.

112 Associate or Assistant Superintendent

Include the salary of the person(s) designated by a county or city board of edcuation as the associate or assistant superintendent of the Local Education Agency.

113 Director and/or Supervisor

Include the salary of the person assigned to direct or supervise staff members, a function, a program, or a supporting service.

114 Classified Principal

Include the salary of the person holding a principal's certificate or receiving approval from the State Agency to serve as a provisional principal and performing the duties of a principal in a school having seven (7) or more state allotted teachers.

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115 Assistant Principal
Include the salary of the person designated by a county or city board of education as the Assistant Principal in a school having not less than 25 state-allotted teaching positions who is a full time assistant principal in a non-teaching position.

119 Other Administrative Assignments
Include the salary of the person required to perform other management activities which are not classified above.

Professional Educator (120)

121 Teacher
Include the salary of the person assigned to instruct pupils not classified elsewhere. (i.e., academic instruction, including Assistant Principals who teach one or more classes, occupational education, librarians, guidance services)

Note: *The following codes should only be used to record the salary of instructional personnel which are funded from State categorical aid under Instructional Personnel - Per Capita Funds.*

122 Math Teacher - Instructional Personnel (Per Capita Funds)
123 Reading Teacher - Instructional Personnel (Per Capita Funds)
124 Music Teacher - Instructional Personnel (Per Capita Funds)
125 Art Teacher - Instructional Personnel (Per Capita Funds)

126 Supervisor
Include the salary of the person assigned to provide information and guidance to teachers to improve the curriculum of a Local Education Agency.

129 Other Professional Educator Assignments
Include the salary of the person assigned to perform other professional educator activities which are not classified above.

Professional - Other (130)

139 Other Professional Assignment
Include the salary of the person assigned duties that require a high degree of knowledge and skills which have not been classified above. Included are duties involving social services, health services, and psychological services.

Technical (140)

141 AV (Audiovisual) Materials Coordinator/Technician
Include the salary of the person who manages or provides technical services in the use of materials and devices to meet the varied needs of learners and staff members; i.e., organizing, retrieving, distributing, preparing, and repairing materials and their related devices.

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142 Teacher Aide

Include the salary of the person assigned to perform the day-to-day activities of teaching pupils under the supervision of a teacher.

149 Other Technical Assignment

Include the salary of the person assigned to perform other technical duties which are not classified above.

Office/Clerical (150)

151 Office Personnel

Include the salary of the person assigned to perform activities concerned with preparing, transferring, transcribing, systematizing, or filing written communications and records. This assignment includes the positions of a bookkeeper, clerk, clerk-typist, stenographer, file clerk, secretary, and clerical aide.

152 Property and Cost Clerk

Include the salary of the person assigned to perform the clerical and property management activities associated with the school bus transportation system.

159 Other Office/Clerical Assignment

Include the salary of the person assigned to perform other office/clerical assignments which are not classified above.

Crafts/Trade (160)

161 Mechanic

Include the salary of the person assigned to perform activities involved with inspecting, repairing, and maintaining functional parts of mechanical equipment and machinery.

162 Maintenance

Include the salary of the person who fills the leadership position for maintenance and custodial operations.

169 Other Crafts and Trade Assignments

Include the salary of the person assigned to perform other skilled manual assignments not classified above.

Other (170)

171 Driver

Include the salary of the person whose assignment consists primarily of driving a vehicle, such as a bus, truck, or automobile.

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172 Attendance Counselor
Include the salary of the person assigned to enforce compulsory attendance laws.

173 Custodian
Include the salary of the person assigned to perform plant housekeeping and operating heating, ventilating and air conditioning systems.

174 Food Service Employees
Include the salary of the person assigned to perform the activities of preparing and serving food.

175 Warehouseman
Include the salary of the person assigned to perform the activities of receiving, storing, and dispensing of school supplies, materials, food and equipment, etc.

176 Manager
Include the salary of the person assigned to direct the day-to-day operations of a group of skilled, semi-skilled, or unskilled workers.

177 Work Study Student
Include the salary of a student in school working part time under a work study program regardless of funding source.

178 Cashiers
Include the salary of the person assigned to collect cash.

179 Other Assignments
Include the salary of the person(s) assigned to perform other duties which are not classified above.

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EMPLOYEE BENEFITS (200)

Amounts paid by the Local Education Agency in behalf of employees, in addition to the regular salary. Such payments are fringe benefits payments, and while not paid directly to employees, nevertheless are part of the total compensation cost of the employee.

Federal Old Age Benefits (210)

211 Employer's Social Security Cost

Include contributions paid by the employer for the employer's share of social security cost.

Retirement Benefits (220)

221 Employer's Retirement Cost

Include contributions paid by the employer for the employer's share of retirement cost.

229 Other Retirement Costs

Include contributions paid by the employer which are not classified above.

Insurance Benefits (230)

231 Employer's Hospitalization Insurance Cost

Include contributions paid by the employer for employee hospitalization insurance.

232 Employer's Workmen's Compensation Insurance Cost

Include amounts expended for workmen's compensation insurance cost.

239 Other Insurance Costs

Include contributions paid by the employer which are not classified above.

Other Employee Benefits (290)

291 Payments to/for Injured Employees

Include amounts expended for payment to employees or in behalf of employees for injuries received during the course of their work that is in excess of any amounts received from Workmen's Compensation or any other type if insurance.

299 Other Employee Benefits

Include other employee benefits not classified above.

**Subject** Chart of Accounts Procedures - Coding Structure: Object Codes

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PURCHASED SERVICES (300)

Amounts paid for personal services rendered by personnel who are not on the payroll of the Local Education Agency, and other services which the Local Education Agency may purchase.

Professional and Technical Services (310)

311 Contracted Services

Include amounts paid for non-payroll professional and technical services performed under contract excluding Workshops and In-Service Training and Legal and Audit Fees which are coded in object codes 312 and 313, respectively.

312 Workshops and In-Service Training

Include amounts paid for contracted services, supplies, and participants' costs for workshops and in-service seminars designed to enhance the quality of a program.

313 Contracted Services - Legal and Audit

Include amounts paid for nonpayroll services performed by a qualified attorney to assist the Local Education Agency in specialized legal matters, and services performed by an independent auditor concerned with examining, verifying and reporting on the accounting records of the Local Education Agency.

319 Other Professional and Technical Services

Include amounts paid for other professional and technical services which are not classified above.

Property Services (320)

321 Public Utilities - Electric Services

Include expenditures for electric services.

322 Public Utilities - Natural Gas

Include expenditures for natural gas.

323 Public Utilities Other Than Electricity and Natural Gas

Include expenditures for water, sewage, and garbage services.

324 Cleaning Services

Include amounts paid for services purchased to clean buildings other than those provided by Local Education Agency employees.

325 Contracted Repairs and Maintenance - Buildings

Include expenditures for building repairs and maintenance services not provided directly by Local Educational Agency personnel. This includes contracts and agreements covering the upkeep of grounds and buildings. (Costs for new construction, renovating, and remodeling are not included here, but are considered under Capital Outlay.)

326 Contracted Repairs and Maintenance - Equipment

Include expenditures for equipment repairs and maintenance services not provided directly by Local Education personnel. This includes maintenance contracts and agreements.

327 Rentals

Include expenditures for leasing or renting land, buildings, and equipment for both temporary and long range use by the Local Education Agency. This includes rental of buses and other vehicles operated by Local Education Agency personnel, lease of data processing equipment, lease-purchase arrangements, and similar rental agreements.

329 Other Property Services

Include expenditures for other property services which are not classified above.

Transportation Services (330)

331 Pupil Transportation - Contracted

Include expenditures to persons other than employees, and agencies for the purpose of transporting children to school. These include those expenditures to individuals who transport themselves or to parents who transport their own children for reimbursement of transportation expenses.

332 Travel

Include costs for transportation, meals, hotel, and other expenses associated with traveling on business for the Local Eudcation Agency and also travel and per diem to the members of the Local Education Agency board of education.

333 Principal's Bus Travel

Include amounts paid to the individual principal with bus routing responsibilities.

339 Other Transportation Services

Include amounts paid for other transportation services which are not classified above.

Communications (340)

341 Telephone

Include amounts paid for telephone services.

342 Postage

Include amounts paid for postage services.

349 Other Communication Services

Include amounts paid for communication services not classified above.

**Subject** Chart of Acounts Procedures - Coding Structure: Object Codes

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Advertising (350)

351 Advertising Fees
Include expenditures for printed announcements in professional periodicals and newspapers or announcements broadcast by radio and television networks. These expenditures include advertising for such purposes as personnel recruitment, bond sales, used equipment sales, and other objects. Costs for professional fees for advertising or public relations services are not recorded here but are charged to object code 311 - Contracted Services.

359 Other Advertising Services
Include expenditures for other advertising services which are not classified above.

Printing and Binding (360)

361 Printing and Binding Fees
Include expenditures for job printing and binding usually according to specificaitons of the Local Education Agency. This includes the design and printing of forms and posters as well as printing and binding of Local Eudcation Agency publications. Preprinted standard forms are not charged here, but are recorded under supplies and materials.

362 Reproduction Costs
This code should be used only by those units desiring to capture all copier costs under one code. Include under this code expenditures for equipment rental (Xerox, IBM copier, 3M copier, etc.) and all supplies needed to operate the machine (paper, toner, etc.). Units not desiring to capture all copier costs under one code should classify equipment rental to code 327 - Rentals and supply purchases to code 412 - Office Supplies and Materials.

369 Other Printing and Binding Services
Include expenditures for all other printing and binding services which are not classified above.

Tuition (370)

371 Tuition Fees
Include expenditures to reimburse other educational agencies for services rendered to students residing within the legal boundaries of the paying Local Education Agency.

Other Purchased Services (390)

391 Field Trips
Include expenditures for transportation and other costs related to field trips.

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399 Other Purchased Services

Include expenditures for all other purchased services not classified above.

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SUPPLIES AND MATERIALS (400)

A supply item is any article or material which meets any one or more of the following conditions: (1) it is consumed in use; (2) it loses its original shape or appearance with use; (3) it is expendable, that is, if the article is damaged or some of its parts are lost or worn out, it is usually more feasible to replace it with an entirely new unit rather than repair it (which is not true of equipment); (4) it is an inexpensive item, having characteristics of equipment, whose small unit cost makes it inadvisable to capitalize the item; and (5) it loses its identity through incorporation into a different or more complex unit or substance.

Supplies (410)

411 Instructional Supplies

Include all supplies used in the teaching of pupils. (Examples: construction paper, crayons, pencils, pencil sharpeners, and other small unit cost equipment that meets the criteria for a supply item as outlined above.)

412 Supplies and Materials

Include amounts expended for supplies and materials other than instructional supplies. (Expendable tools used in the garage and School Food Service should be recorded here.)

413 Fuel for Facilities

Include amounts expended for energy sources, except electricity and natural gas, that are used in the heating of buildings operated by the Local Education Agency.

414 Gas, Oil, Grease, Anti-Freeze

Include amounts expended for gas, oil, grease, and anti-freeze for the operation of vehicles.

415 Tires and Tubes

Include amounts expended for tires and tubes for the operation of vehicles.

416 Repair Parts and Materials

Include amounts expended for repair parts and materials used in the repair of equipment utilized for instructional and support functions of the Local Education Agency, for repair parts and materials used for the maintenance of school property, and for repair parts for maintenance of vehicles.

419 Other Supplies

Include amounts expended for other supplies not classified above.

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Textbooks (420)

421 Textbooks
Include amounts expended for prescribed books purchased for pupils or groups of pupils, and resold or furnished free to them. This category includes the cost of workbooks, textbook binding or repairs, as well as the new amount of textbooks which are purchased to be resold or rented.

429 Other Textbooks
Include amounts expended for other textbooks not classified above.

Library/Audiovisual Services (430)

431 Library Books (Regular and Replacement)
Include amounts expended for regular or incidental purchases of library books available for general use by students, including any reference books used solely in the classroom. Also recorded here are costs of binding or other repairs to school library books. The initial purchase of books for a new school library or any material accessions involving an expansion of the library are recorded under Capital Outlay.

432 Periodicals
Include amounts expended for periodicals and newspapers. A periodical is any publication appearing at regular intervals of less than a year and continuing for an indefinite period.

433 Audiovisual Supplies and Materials
Include amounts expended for audiovisual supplies and materials in the Local Education Agency.

434 Processing and Cataloging
Include amounts expended for processing and cataloging books and materials in a school library. This would include kits and other supplies used for this purpose.

439 Other Library/Audiovisual Services
Include amounts expended for other library/audiovisual services not classified above.

Food (450)

451 Food Purchase
Include amounts expended for food purchased by the Local Education Agency for the School Food Service program.

459 Other Food Purchases
Include amounts expended for other food purchases not classified above.

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CAPITAL OUTLAY (500)

Expenditures for the acquisition of fixed assets or additions to fixed assets. They are expenditures for land or existing buildings, improvement of grounds, construction of buildings, additions to buildings, remodeling of buildings, initial equipment, additional equipment, and replacement of equipment.

Land (510)

511 Purchase of New Sites

Include amounts expended for the purchase of new sites.

512 Land Additions to Existing Sites

Include amounts expended for the purchase of land as additions to existing sites.

Buildings (520)

521 Purchase of Existing Buildings

Include expenditures for the purchase of an existing building.. This would include a new building never occupied and a building which has been used before.

522 General Contract

Include expenditures made to a general contractor for the construction of a new building and the remodeling or renovation of an existing building.

523 Heating Contract

Include expenditures made to a heating contractor for the construction of a new building and the remodeling or renovation of an existing building.

524 Electrical Contract

Include expenditures made to an electrical contractor for the construction of a new building and the remodeling or renovation of an existing building.

525 Plumbing Contract

Include expenditures made to a plumbing contractor for the construction of a new building and the remodeling or renovation of an existing building.

526 Architects Fees

Include expenditures made to an architect for the construction of a new building and the remodeling or renovation of an existing building.

529 Miscellaneous Contracts and Other Charges

Include expenditures made for other contracts for the construction of a new building and the remodeling or renovation of an existing building.

## Improvements Other than Buildings (530)

531 Improvements to New Sites

Include amounts expended for improvements to grounds of new sites, such as grading, landscaping, streets, curbs, drains, seeding, and planting of shrubs and trees; constructing new sidewalks, roadways, retaining walks, sewer and storm drains; installing hydrants; initial surfacing and soil treatment of athletic fields and tennis courts, etc.

532 Improvements to Existing Sites

Include amounts expended for improvements to grounds of existing sites, such as grading, landscaping, streets, curbs, drains, seeding, and planting of shrubs and trees; constructing new sidewalks, roadways, retaining walks, sewer and storm drains; installing hydrants; initial surfacing and soil treatment of athletic fields and tennis courts, etc.

## Equipment (540)

541 Purchase of Equipment

Include expenditures for the initial, additional, and replacement items of equipment such as furniture and machinery for both instructional and support areas.

*Note: The following expansion of the coding should only be used to record the purchase of instructional equipment which is funded by an ESEA, Title IV - Part B grant.*

542 Instructional Equipment - Natural Science
543 Instructional Equipment - Mathematics
544 Instructional Equipment - Social Science
545 Instructional Equipment - Foreign Language
546 Instructional Equipment - English and Reading
547 Instructional Equipment - Arts and Humanities
548 Instructional Equipment - Industrial Arts
549 Instructional Equipment - Other

## Vehicles (550)

551 Purchase of Vehicles

Include expenditures for the purchase of cars, trucks, and buses.

## Library Books (560)

561 Library Books - Capitalized

Include expenditures for books which constitute the initial furnishing of a newly constructed building. These include books outside the library if they are capitalized and any appreciable accession involving an expansion of the library.

| | | |
|---|---|---|
| **Subject** Chart of Accounts Procedures - Coding Structure: Object Codes | | |
| **Effective** | **Supersedes** | **Procedure No.** 05-35 |

OTHER OBJECTS (600)

Amounts paid for goods and services not otherwise classified above.

Dues and Fees (610)

611 Membership Dues and Fees

Include expenditures or assessments for membership in professional or other organizations or associations or payments to a paying agent for services rendered.

Insurance and Judgments (620)

621 Liability Insurance

Include expenditures for insurance coverage of the Local Education Agency, or its officers and employees, losses resulting from judgments awarded against the Local Education Agency, except pupil transportation insurance. Also recorded here are any expenditures other than judgments made in lieu of liability insurance. Payments of judgments awarded against the Local Education Agency and not covered by insurance are recorded under object code 624 - Judgments Against the Local Education Agency. Pupil transportation insurance is charged to Object Code 626 - Pupil Transportation Insurance.

622 Vehicle Liability Insurance

Include amounts expended for vehicle liability insurance premiums on all vehicles titled to the Local Education Agency.

623 Property Insurance

Include amounts expended for fire insurance premiums on buildings and contents owned by the Local Education Agency and other property insurance on any type property other than vehicles owned or leased by the Local Education Agency.

624 Judgments Against the Local Education Agency

Include expenditures from current funds for all judgments (except as indicated) against the Local Education Agency that are not covered by liability insurance, but are of a type that might have been covered by insurance. Only amounts paid as the result of court decisions are recorded here. Judgments against the Local Education Agency resulting from failure to pay bills or debt service are recorded under the appropriate expenditure accounts as though the bills or debt service had been paid when due.

625 Fidelity Bond Premium

Include expenditures for bonds insuring the Local Education Agency against losses resulting from the actions of the School Finance Officer and other employees of the Local Education Agency. Also recorded here are any expenditures other than judgments made in lieu of fidelity bonds.

| | | |
|---|---|---|
| **Subject** Chart of Accounts Procedures - Coding Structure: Object Codes | | |
| **Effective** | **Supersedes** | **Procedure No.** 05-35 |

626 Pupil Transportation Insurance

Include amounts expended for pupil transportation liability insurance premiums. Premiums paid by the student would not be included in this code. Treat these as balance sheet items since they are not expenditures of the Local Education Agency itself.

627 Payments to Injured School Children

Include amounts expended for the payment for injuries to school children occurring at any school sponsored activity, including transportation to and from school on vehicles titled to the Local Education Agency.

628 Scholastic Accident Insurance

Include amounts expended for pupil accident insurance premiums. Premiums paid by the student would not be included in this code. Treat these as balance sheet items since they are not expenditures of the Local Education Agency itself.

629 Other Insurance and Judgments

Include expenditures for insurance premiums and judgments not classified above.

Miscellaneous Objects (690)

691 License and Title Fees

Include amounts expended for the purchase of State Department of Motor Vehicles license fees, title fees, and safety inspection fees.

692 Indirect Cost

Include amounts expended for the payment of amounts identified as indirect cost.

693 Depreciation

Include amounts of depreciation expense claimed on fixed assets owned by the Local Education Agency.

699 Miscellaneous (Describe)

Include amounts expended for all miscellaneous expenses not classified above. Object of expenditure to be used with contingency appropriation.

| | | |
|---|---|---|
| **Subject:** Chart of Accounts Procedures - Coding Structure: Object Codes | | |
| **Effective** | **Supersedes** | **Procedure No.** 05-35 |

TRANSFERS (700)
Amounts paid from one fund to another fund or to another entity, as permitted by law, which do not represent a purchase of a good or service and consequently for which the Local Education Agency received no return.

Fund Transfers (710)

| | |
|---|---|
| 711 | Transfers to the State Public School Fund |
| 712 | Transfers to the Local Current Expense Fund |
| 713 | Transfers to the Federal Grant Fund |
| 714 | Transfers to the Capital Outlay Fund |
| 715 | Transfers to the School Food Service Fund |
| 716 | Transfers to the Trust and Agency Fund |

# ESEA TITLE I - MIGRANT #51

Program Report Code Title

## Chart of Accounts Cross-Reference Listing

| NEW ACCOUNTS | | | CORRESPONDING OLD ACCOUNT | |
|---|---|---|---|---|
| CODE | | DESCRIPTION | CODE | DESCRIPTION |
| Purpose | Object | | | |
| 6300 | - | GENERAL ADMINISTRATION SUPPORT SERVICES | 100 | ADMINISTRATION |
| 6320 | - | Executive Administration | 100G | SALARIES-Superintendent's Office |
| 6320 | 113 | Director and/or Supervisor | 110G | Director |
| 6320 | 151 | Office Personnel | 110G | Secretary |
| 6320 | 151 | Office Personnel | 110G | Clerk/Typist |
| 6320 | - | Executive Administration | | OTHER COSTS - Administration |
| 6320 | 313 | Contracted Services-Legal and Audit | 120 | Contracted Services - Audit |
| 6320 | 332 | Travel | 130G | Travel-Administration |
| 6320 | 412 | Supplies and Materials | 130G | Office Supplies |
| 6630 | - | Information Services | 130G | Dissemination |
| 6630 | 311 | Contracted Services | | |
| 6630 | 319 | Other Professional & Technical Services | | |
| 6630 | 361 | Printing & Binding Fees | | |
| 6630 | 369 | Other Printing & Binding Services | | |
| 6630 | 412 | Supplies & Materials | | |
| 6620 | | Planning, Research, Development & Evaluation Services | 130Q | Evaluation |
| 6620 | 311 | Contracted Services | | |

## ESEA TITLE I - MIGRANT #51

Program Report Code Title

### Chart of Accounts Cross-Reference Listing

| NEW ACCOUNTS | | | CORRESPONDING OLD ACCOUNT | |
|---|---|---|---|---|
| CODE | | DESCRIPTION | CODE | DESCRIPTION |
| Purpose | Object | | | |
| 6620 | 319 | Other Professional & Technical Services | | |
| 6620 | 412 | Supplies & Materials | | |
| | | | 200 | INSTRUCTION |
| 6410 | | Office of the Principal | | Salaries of Principals |
| 6410 | 114 | Classified Principals | 211 | Principals Increments |
| 6210 | | Improvement of Instructional Services | | Salaries of Supervisor of Instruction |
| 6210 | 126 | Supervisor | 212 | Supervisor |
| 6210 | 129 | Other Professional Educator Assignments | 212.1 | Salaries for In-Service Education |
| 5200 | | Special Instructional Programs | | Salaries of Teachers |
| 5200 | 121 | Teacher | 213 | Teachers Salaries |
| 6220 | | Educational Media Services | | Salaries of Audiovisual Personnel |
| 6220 | 141 | A-V (Audiovisual) Materials Coordinator/Technician | 214B | Audiovisual Personnel |
| 6130 | | Guidance Services | | Salaries of Guidance Personnel |
| 6130 | 121 | Teacher | 214C | Guidance Personnel |
| 6150 | | Psychological Services | | Salaries of Psychological Personnel |
| 6150 | 139 | Other Professional Assignment | 214D | Psychological Personnel |

# ESEA TITLE I - MIGRANT #51

Program Report Code Title

## Chart of Accounts Cross-Reference Listing

| NEW ACCOUNTS | | | CORRESPONDING OLD ACCOUNT | |
|---|---|---|---|---|
| CODE | | DESCRIPTION | CODE | DESCRIPTION |
| Purpose | Object | | | |
| 6210 | | Improvement of Instructional Services | | Secretarial Salaries for Instructional Personnel |
| 6210 | 151 | Office Personnel | 215B | Secretarial Salaries for Supervisor of Instruction |
| 6210 | 151 | Office Personnel | 215C | Secretarial Salaries for Teachers |
| 5200 | | Special Instructional Programs | | Salaries of Teacher Aides |
| 5200 | 142 | Teacher Aide | 216 | Teacher Aides Salaries |
| | | | | OTHER COSTS - Instruction |
| 6220 | | Educational Media Services | | |
| 6220 | 421 | Textbooks | 220 | Textbooks |
| 6220 | 429 | Other Textbooks | | |
| 6220 | 431 | Library Books (Regular and Replacement) | 230A | School Library Books |
| 6220 | 432 | Periodicals | 230B | Periodicals & Newspapers |
| 6220 | 433 | Audiovisual Supplies and Materials | 230C | Audiovisual Materials |
| 6220 | 439 | Other Library/Audiovisual Services | 230D | Other Library Expense |
| 5200 | | Special Instructional Programs | | |
| 5200 | 411 | Instructional Supplies | 240 | Teaching Supplies |
| 5220 | 411 | Instructional Supplies | 250A | Miscellaneous Supplies for Instruction |

# ESEA TITLE I - MIGRANT # 51

Program Report Code Title

## Chart of Accounts Cross-Reference Listing

| NEW ACCOUNTS | | | CORRESPONDING OLD ACCOUNT | |
|---|---|---|---|---|
| CODE | | DESCRIPTION | CODE | DESCRIPTION |
| Purpose | Object | | | |
| 6210 | | Improvement of Instructional Services | 250B | Travel Expense for Instruction |
| 6210 | 332 | Travel (Supervisors) | | |
| 5200 | | Special Instructional Programs | | |
| 5200 | 332 | Travel (Teacher and/or Aide) | | |
| 5200 | | Special Instructional Programs | 250C | Miscellaneous Expenses for Instruction |
| 5200 | 391 | Field Trips | | Admissions |
| 5200 | 391 | Field Trips | | Field Trips |
| 6210 | | Improvement of Instructional Services | | Inservice Education Expenses |
| 6210 | 312 | Workshops and Inservice Training (All costs & Consultants) | 250-C-1 | Inservice Education Expenses |
| 6110 | | Direction of Pupil Support Services (Salaries) | | NOTE: There are no account codes in Handbook II for Direction of Pupil Support Services. |
| 6110 | 139 | Other Professional Assignment (Supervisor/Director) | | |
| 6110 | 151 | Office Personnel | | |
| 6110 | | Direction of Pupil Support Services (Other Costs) | | |
| 6110 | 332 | Travel | | |
| 6110 | 412 | Supplies & Materials | | |
| 6110 | 414 | Gas, Oil, Grease, Antifreeze | | |

# ESEA TITLE I - MIGRANT #51

Program Report Code Title

## Chart of Accounts Cross-Reference Listing

| NEW ACCOUNTS | | | CORRESPONDING OLD ACCOUNT | |
|---|---|---|---|---|
| CODE | | DESCRIPTION | CODE | DESCRIPTION |
| Purpose | Object | | | |
| 6110 | 415 | Tires & Tubes | | |
| 6110 | 416 | Repair Parts and Materials | | |
| 6130 | | Guidance Services | | Guidance Services (See 200 Series) |
| 6130 | 332 | Travel | | |
| 6130 | 412 | Supplies & Materials | | |
| 6130 | 414 | Gas, Oil, Grease, Antifreeze (Operation of Vehicle) | | |
| 6130 | 415 | Tires & Tubes (Operation of Vehicle) | | |
| 6130 | 416 | Repair Parts & Materials (Operation of Vehicle) | | |
| 6120 | | Attendance-Social Work Services | 300 | ATTENDANCE - SALARIES |
| 6120 | 139 | Other Professional Assignment (Social Worker) | 310A | Attendance Personnel |
| 6120 | 151 | Office Personnel (Secretary) | | |
| 6120 | 172 | Attendance Counselor | | |
| 6120 | | Attendance-Social Work Service | | OTHER COSTS _ Attendance |
| 6120 | 412 | Supplies & Materials | 320A | Supplies |
| 6120 | 414 | Gas, Oil, Grease, Antifreeze (Operation of Vehicle) | | |
| 6120 | 415 | Tires and Tubes (Operation of Vehicle) | | |

# ESEA TITLE I - MIGRANT #51

Program Report Code Title

## Chart of Accounts Cross-Reference Listing

| NEW ACCOUNTS | | | CORRESPONDING OLD ACCOUNT | |
|---|---|---|---|---|
| CODE | | DESCRIPTION | CODE | DESCRIPTION |
| Purpose | Object | | | |
| 6120 | 416 | Repair Parts & Materials (Operation of Vehicle | | |
| 6120 | 332 | Travel | 320B | Travel |
| 6140 | | HEALTH SERVICES | 400 | HEALTH SERVICES - SALARIES |
| 6140 | 139 | Other Professional Assignment (Nurse) | 410A3 | School Nurse |
| 6140 | 151 | Office Personnel (Secretary) | 410B | Nonprofessional & non-technical Health Personnel |
| 6140 | | Health Services | | OTHER COSTS - Health Services |
| 6140 | 412 | Supplies & Materials | 420A | Supplies |
| 6140 | 414 | Gas, Oil, Grease, Antifreeze (Operation of Vehicle) | | |
| 6140 | 415 | Tires & Tubes (Operation of Vehicle) | | |
| 6140 | 416 | Repair Parts & Materials (Operation of Vehicle) | | |
| 6140 | 332 | Travel | 420B | Travel |
| 6140 | 311 | Contracted Services (Doctors, Dentists, Medical) | 420C | Medical/Dental Services |
| 6550 | | TRANSPORTATION OF PUPILS | 500 | PUPIL TRANSPORTATION SERVICES SALARIES |
| 6550 | 171 | Driver | 510B | Bus Drivers |
| 6550 | 161 | Mechanic | 510C | Mechanic Salaries |
| 6550 | | Transportation of Pupils | 500 | OTHER COSTS- Pupil Transportation Services |

# ESEA TITLE I - MIGRANT #51

Program Report Code Title

## Chart of Accounts Cross-Reference Listing

| NEW ACCOUNTS | | | CORRESPONDING OLD ACCOUNT | |
|---|---|---|---|---|
| CODE | | DESCRIPTION | CODE | DESCRIPTION |
| Purpose | Object | | | |
| 6550 | 339 | Other Transportation Serv. | 520 | Contracted Services & Public Carriers |
| 6550 | 331 | Pupil Transportation-Contracted (Chartered Buses, Cabs, Cars) | | |
| 6550 | 626 | Pupil Transportation Ins. (Child) | 540 | Pupil Transportation Ins. |
| 6550 | 622 | Vehicle Liability Ins. (Bus) | | |
| 6550 | 414 | Gas, Oil, Grease, Anti-freeze | 560A | Gasoline |
| 6550 | 414 | Gas, Oil, Grease, Anti-freeze | 560B | Lubricants |
| 6550 | 415 | Gas, Oil, Grease, Antifreeze | 560C | Tires and Tubes |
| 6550 | 416 | Repair Parts & Materials | 560D | Repair Parts & Batteries |
| 6540 | | OPERATION OF PLANT | 600 | OPERATION OF PLANT-SALARIES |
| 6540 | 173 | Custodian | 610B | Custodial Salaries |
| 6540 | | Operation of Plant | | OTHER COSTS-Operation of Plant |
| 6540 | 324 | Cleaning Services | 620 | Contracted Services |
| 6540 | 413 | Fuel for Facilities | 630 | Heat for Buildings (Other than Electricity) |
| 6540 | 323 | Public Utilities other than Electricity and Natural Gas | 640A & C | Water, Sewerage, Gas |
| 6540 | 321 | Electric Services | 640B | Electricity (Including electric heat) |
| 6540 | 322 | Natural Gas | 640 | Heat for Building |

# ESEA TITLE I - MIGRANT #51

Program Report Code Title

## Chart of Accounts Cross-Reference Listing

| NEW ACCOUNTS | | | CORRESPONDING OLD ACCOUNT | |
|---|---|---|---|---|
| CODE | | DESCRIPTION | CODE | DESCRIPTION |
| Purpose | Object | | | |
| 6540 | 341 | Telephone | 640D | Telephone |
| 6540 | 412 | Supplies & Materials | 650A | Custodial Supplies |
| * | 414 | Gas, Oil, Grease, Anti-freeze | 650B | Supplies for Operation of Vehicle |
| * | 415 | Tires & Tubes | | |
| * | 416 | Repair Parts & Materials | | |
| * The Function will vary depending on the Operation of the Vehicle. For example - Director's Vehicle cost will be coded to 6320 - Executive Administration. | | | | |
| 6580 | | MAINTENANCE OF PLANT | 700 | MAINTENANCE OF PLANT - SALARIES |
| 6580 | 161 | Mechanic | 710C | Salaries for Repair of Equipment |
| 6580 | | Maintenance of Plant | | OTHER COSTS-Maintenance of Plant |
| 6580 | 325 | Contracted Repairs & Maintenance-Building | 720B | Contracted Services - Grounds & Buildings |
| 6580 | 412 | Supplies & Materials | | |
| 6580 | 326 | Contracted Repairs & Maintenance-Equipment | 720C | Contracted Services - Equipment |
| * | 541 | Purchase of Equipment | 730A | Replacement of Instructional Equipment |
| * | 551 | Purchase of Vehicle | | |
| * | 541 | Purchase of Equipment | 730B | Replacement of Non-Instructional Equipment |

# ESEA TITLE I - MIGRANT #51

Program Report Code Title

## Chart of Accounts Cross-Reference Listing

| NEW ACCOUNTS | | | CORRESPONDING OLD ACCOUNT | |
|---|---|---|---|---|
| CODE | | DESCRIPTION | CODE | DESCRIPTION |
| Purpose | Object | | | |
| * | 551 | Purchase of Vehicle | | |
| * The equipment or vehicle replacements will be charged to the function for which they are purchased to be used. | | | | |
| 6580 | 412 | Supplies & Materials | 740B | Other expense for upkeep of Grounds & Buildings |
| 6580 | 412 | Supplies & Materials | 740C | Other expense for upkeep of equipment |
| 5910 | | OTHER INSTRUCTIONAL PROGRAMS-EMPLOYEE BENEFITS | 800 | FIXED CHARGES |
| 5910 | 221 | Employer's Retirement Cost | 810A | Retirement |
| 5910 | 211 | Employer's Social Security Cost | 810B | Social Security |
| 5910 | 231 | Employer's Hospitalization Insurance Cost | 820B | Hospital Insurance |
| 5910 | 232 | Employer's Workmen's Comp. Insurance Cost | 820B | Workmen's Compensation |
| 5910 | 239 | Other Employee Benefits (Life Insurance Costs) | 820B | Employee Insurance |
| 6910 | | OTHER SUPPORTING SERVICES - EMPLOYEE BENEFITS | | |
| 6910 | 221 | Employer's Retirement Costs | 810A | Retirement |
| 6910 | 211 | Employer's Social Security Cost | 810B | Social Security |
| 6910 | 231 | Employer's Hospitalization Insurance Cost | 820B | Hospital Insurance |

# ESEA TITLE I - MIGRRANT #51

Program Report Code Title

## Chart of Accounts Cross-Reference Listing

| NEW ACCOUNTS | | | CORRESPONDING OLD ACCOUNT | |
|---|---|---|---|---|
| CODE | | DESCRIPTION | CODE | DESCRIPTION |
| Purpose | Object | | | |
| 6910 | 232 | Employer's Workmen's Comp Insurance Cost | 820B | Workmen's Compensation |
| 6910 | 239 | Other Insurance Costs (Life Insurance) | 820B | Employee Insurance |
| 6540 | | OPERATION OF PLANT | | |
| 6540 | 329 | Property Insurance | 820A | Prdperty Insurance |
| 6540 | 622 | Vehicle Liability Insurance | 820C | Liability Insurance |
| 6550 | | TRANSPORTATION OF PUPILS | | |
| 6550 | 626 | Pupil Transportation Ins. | | |
| 6320 | | EXECUTIVE ADMINISTRATION | | |
| 6320 | 625 | Fidelity Bond Premium | 820D | Fidelity Bond Premium |
| 5200 | | SPECIAL INSTRUCTIONAL PROGRAMS | | |
| 5200 | 327 | Rentals | 830A | Rent (Instructional Purposes) |
| 6320 | 327 | EXECUTIVE ADMINISTRATION | | |
| 6320 | 327 | Rentals (Administrative Offices) | 830A | Rent (Non-Instructional) |
| 6560 | | FOOD SERVICES | 900 | FOOD SERVICES - SALARIES |
| 6560 | 176 | Manager | 910 | Salaries of Food Service Workers |
| 6560 | 174 | Food Service Employees | | |
| | | FOOD SERVICES | | OTHER COSTS - Food Services |
| 6560 | 451 | Food Purchases | 920 | Other Costs - Foods, Snacks, etc. |

# ESEA TITLE I - MIGRANT #51

Program Report Code Title

## Chart of Accounts Cross-Reference Listing

| NEW ACCOUNTS | | | CORRESPONDING OLD ACCOUNT | |
|---|---|---|---|---|
| CODE | | DESCRIPTION | CODE | DESCRIPTION |
| Purpose | Object | | | |
| 6560 | 459 | Other Food Purchases | | |
| 6190 | | OTHER PUPIL SUPPORT SERVICES | 1100 | COMMUNITY SERVICES-SALARIES |
| 6190 | 139 | Other Professional Assignment | 1120A | Salaries for Civic Activities |
| 6190 | 139 | Other Professional Assignment | 1150A | Salaries for Welfare Workers |
| 6190 | | OTHER PUPIL SUPPORT SERVICES | | OTHER EXPENSE-Community Serv. |
| 6190 | 699 | Miscellaneous (Describe) (P.A.C. here) | 1120B | Other Expenses-Civic Activities (P.A.C.) |
| 6190 | 332 | Travel | 1150B | Other Expenses-Welfare Activities (Travel) |
| 6190 | 419 | Other Supplies (Clothing, Shoes, etc.) | 1150B | Other Expenses-Welfare Activities (Clothing) |
| 6190 | 412 | Supplies & Materials | 1150B | Other Expenses (Office Supplies) |
| * All Capital Outlay will be charged to the various functions for which they are purchased. Object codes are shown here and the function code should be applied under the proper various functions. | | | | |
| * | 529 | Miscellaneous Contracts & OTHER CHANGES | 1220-C-10 | Minor Remodeling |
| * | 541 | Purchase of Equipment | 1230-2-B | Administrative Equipment |
| * | 551 | Purchase of Vehicle | | |
| * | 541 | Purchase of Equipment | 1230-2C-1 | T.V. Equipment (Equipment) |
| * | 551 | Purchase of Vehicles | | |

## ESEA TITLE I - MIGRANT #51

Program Report Code Title

### Chart of Accounts Cross-Reference Listing

| NEW ACCOUNTS | | | CORRESPONDING OLD ACCOUNT | |
|---|---|---|---|---|
| CODE | | DESCRIPTION | CODE | DESCRIPTION |
| Purpose | Object | | | |
| * | 541 | Purchase of Equipment | 1230-2-C-2 | A.V.Equipment (Equipment) |
| * | 551 | Purchase of Vehicles | | |
| * | 541 | Purchase of Equipment | 1230-2-C-3 | Instructional Equipment |
| * | 551 | Purchase of Vehicles | | Instructional Equipment (Vehicles) |
| * | 541 | Purchase of Equipment | 1230-2-D | Health & Attendance Equip. |
| * | 551 | Purchase of Vehicles | | Health & Attendance Equip. (Vehicles) |
| * | 551 | Purchase of Vehicles | 1230-2-E | Purpil Transportation Equip. (Buses) |
| * | 541 | Purchase of Equipment | 1230-2-1 | Community Services Equip. |
| * | 551 | Purchase of Vehicles | | Community Services Equip. (Vehicles) |
| * | | | 1200 | SITES, PREPARATION AND IMPROVEments |
| | 532 | Improvement to Existing Sites | 1210-C-2 | Contracts & Other Costs |
| * | | | 1200 | ERECTION OF NEW STRUCTURES - ADDITIONS |
| | 521 | Purchase of Existing Buildings (Mobile Units) | 1220-B-2 | Mobile Units - Contracts & Other Costs |
| | 522 | General Contract | 1220-C-2 | Remodeling, Alterations - Existing Structures |
| | 523 | Heating Contract | | |

# ESEA TITLE I - MIGRANT #51

Program Report Code Title

## Chart of Accounts Cross-Reference Listing

| NEW ACCOUNTS | | | CORRESPONDING OLD ACCOUNT | |
|---|---|---|---|---|
| CODE | | DESCRIPTION | CODE | DESCRIPTION |
| Purpose | Object | | | |
| | 524 | Electrical Contract | | |
| | 525 | Plumbing Contract | | |
| | 526 | Architects Fees | | |
| | 529 | Miscellaneous Contracts & Other Charges | | |
| 8100 | | Payments to Other Governmental Units & Transfers Of Funds | | INDIRECT COSTS |
| 8100 | 692 | Payments to Other Governmental Units & Transfers of Funds | 1940B | Indirect Costs |

SUGGESTED SURVEY FORM

## MIGRANT STUDENT SCHOOL CLASSROOM SURVEY FORM

Has the student moved with his parent or guardian from one school administrative unit to another during the past year so that the parent or guardian could acquire temporary or seasonal employment in agriculture, food processing or fishing activities?

Yes____ No____

If the answer to the above question is "yes," please record the student's name and homeroom teacher's name.

Student's name________________________________

Homeroom teacher's name________________________

Has the student moved with his parent or guardian from one school administrative unit to another during the past five years so that the parent or guardian could acquire temporary or seasonal employment in agriculture, food processing or fishing activities?

Yes____ No____

If the answer to the above question is "yes," please record the student's name and homeroom teacher's name.

Student's name________________________________

Homeroom teacher's name________________________

NORTH CAROLINA DEPARTMENT OF PUBLIC INSTRUCTION
RALEIGH, N. C. 27611

# APPLICATION FOR MIGRANT PROGRAM GRANT

HEW 608-T (Modified)

| | | |
|---|---|---|
| FOR STATE USE ONLY | Date Received | Date Approved |
| | Signature (Authorized Personnel) | |

4. LEA ______________________

Address ______________________

5. Description of Project

___ Regular Term ___ Summer Term

6. Beginning Date for: Ending Date for:

Staff __________ Staff __________

Students __________ Students __________

1. Clearinghouse Identification *N/A*

2. Application No. FY __________

3. Federal Grantor Agency *USOE*

Total Amount Approved $ __________

7. Federal Funding Requested $ __________

8. Grantee Type *LEA*

9. Federal Catalog Number 13,429

10. Type of Application Request

___ Initial project ___ Amendment

11. Type of Assistance *Grant*

12. Population Directly Benefiting from the project *Migratory Children*

13. Congressional District __________

14. Hours of Operation:

| | Sunday | Monday | Tuesday | Wednesday | Thursday | Friday | Saturday |
|---|---|---|---|---|---|---|---|
| From: | | | | | | | |
| To: | | | | | | | |

| 15. Will the assistance requested | Yes | No |
|---|---|---|
| (1) Require state, local or regional priority rating? | | X |
| (2) Require state or local advisory, educational or health clearances? | | |
| (3) Require clearinghouse review? | | X |
| (4) Require state, local, regional or other planning approval? | | X |
| (5) Serve a Federal installation? | | X |
| (6) Be on Federal land or installation? | | X |
| (7) Have an impact on the environment? | | X |
| (8) Displace individual families, businesses or farms? | | X |
| (9) Be covered by an approved comprehensive plan? | | X |
| (10) Involve other related assistance on this project? | | X |

Superintendent (Signature) ______ Telephone ______ Date ______

Migrant Project Director (Signature) ______ Telephone ______ Date ______

16. Estimated Number of Migratory Children to be Served

| | Kindergarten-Elementary | | Secondary | | Unclassified | | Totals | |
|---|---|---|---|---|---|---|---|---|
| | Agriculture | Fishing | Agriculture | Fishing | Agriculture | Fishing | Agriculture | Fishing |
| Interstate | | | | | | | | |
| Intrastate | | | | | | | | |
| Formerly Migratory | | | | | | | | |
| Totals | | | | | | | | |

17. Project Staff: List EACH staff member who will receive salary payment from Title I Migrant funds. (Use additional sheets if necessary).

| Position or Title | Percent of Time | Major Duties |
|---|---|---|
| | | |

18. Check the appropriate spaces to indicate the basis of the needs assessment.

____ Standardized tests
____ Teacher-made tests
____ Student inventories
____ Previous evaluation reports
____ Teacher judgement
____ MSRTS information
____ PAC recommendations

____ Criterion reference tests
____ Publisher's test
____ Student profile records
____ Grade placement records
____ Health screenings
____ Psychological evaluation
____ Other ____________________

19. Areas of need:

A. Analysis of needs assessments indicates achievement below expected levels in the following subject areas:

_____ Reading

_____ Language Arts

_____ Cultural Arts

_____ Kindergarten

_____ Occupational Education

_____ Mathematics

_____ Social Science

_____ Natural Science

_____ Physical Education/Recreation

_____ Other _______________________________

B. Assessments indicate significant needs in the following supporting areas:

_____ Clothing

_____ Food

_____ Guidance-Counseling

_____ Health-Dental

_____ Health-Medical

_____ Transportation

_____ Social Adjustment

_____ Self-Image

_____ Emotional Development

_____ Other _______________________________

20. Project activities:

A. Check the instructional areas included in this project.

_____ Reading

_____ Language Arts

_____ Cultural Arts

_____ Kindergarten

_____ Occupational Education

_____ Mathematics

_____ Social Science

_____ Natural Science

_____ Physical Education/Recreation

_____ Other _______________________________

B. Check the supportive services the project will provide.

_____ Clothing

_____ Food

_____ Guidance-Counseling

_____ Health-Dental

_____ Health-Medical

_____ Transportation

_____ Psychological

_____ Social Adjustment

_____ Self-Image

_____ Emotional Development

_____ MSRTS

_____ Other _______________________________

21. Indicate the need for local in-service training and describe how these needs will be met. (Use additional sheets if necessary).

22. List each school or other facility to be used in the operation of the project and estimate the number of students to be enrolled at each site.

| School or other Facility | Estimated Enrollmen |
|---|---|
| | |

23. Enter the name, address and telephone number of the Migrant Parent Advisory Committee Chairperson.

24. Enter the name and telephone number of the migrant student record clerk.

25. List project objectives in order of priority:

Each objective should include the nature and degree of change expected during the project and the instrument to be used in measuring the changes indicated.
(Use additional sheets if necessary). (Sec. 116d.6(a)(3)).

26. Instructional activities (Complete a separate page for each instructional area).

Instructional area: ______________________________

Instruction in the above topic will be carried out according to the assessed needs of the students. Place an X in the appropriate spaces.

A. Instruction will be carried out:

____By the classroom teacher

____By a para-professional

____In the regular classroom

____In large groups

____In a self-contained class

____On an individualized basis

____By a special teacher

____By other personnel

____In special classes

____In small groups

____In the home or camp

____Other ____________________

B. Instructional supplies will include:

____Books

____Commercial materials

____Kits

____Games

____Reference works

____Teacher-made materials

____A.V. materials

____Programmed materials

____Student-made materials

____Other ____________________

C. The approach to be used will be:

____Team teaching

____Open classroom

____Developmental unit

____Hands-on activities

____Tutorial

____Contingency contracting

____Departmentalized instruction

____Other ____________________

D. List any special features relating to this instructional service which should be noted, such as design, innovations, reduction in cost or time, and social or community involvement.

27. Supporting activities (Complete a separate page for each supporting service).

Supporting Service:________________________________________

Supporting services in the above area will be provided on the basis o[illegible]eed as indicated by needs assessments. Place an X in the appropriate spaces.

A. The service will be carried out by:

____Regular school personnel

____Community agencies

____Parents of migrant children

____Migrant project personnel

____Community volunteers

____Other______________________

B. The service will be coordinated with:

____ESEA Title I programs

____School lunch program

____Regular school programs

____Community agencies (list)____________________________________________

____Volunteer organizations (list)________________________________________

____Other (list)__________________________________________________________

C. List any special features of this supporting service which should be noted, such as design, innovations, reduction in cost or time, and social or community involvement.

28. Evaluation

A. Describe the design of the evaluation report, criteria to be used in evaluating the attainment of the project objectives, and documentation to be submitted with the evaluation report to support the evaluation findings. (Sec. 116.43)

B. Types of data to be collected and submitted to SEA include:

____ Enrollment date

____ Standardized test scores

____ Publisher's test scores

____ Student profile ratings

____ Self-appraisal inventories

____ Newspaper clippings

____ Monitoring reports

____ Records of interagency contacts

____ Records of program volunteers

____ Records of health referrals

____ Individual student performance records

____ Criterion referenced test scores

____ Teacher-made test scores

____ MSRTS information

____ Attendance records

____ Newsletters

____ PAC meeting minutes

____ Records of parent-teacher contacts

____ Records of health screenings

____ Records of social services

____ Others (List) ____________________________________________

29. If applicable, submit a separate attachment justifying the purchase of any equipment requested under this project. Indicate the number of similar items of equipment in the LEA, how the equipment will be used, and reasons for the request to purchase the equipment under this project.

30. BUDGET (Estimated dollar amount of Title I funds required for administration and implementation of this project.)

| PURPOSE CODE | ACCOUNT TITLE | 100 SALARIES | 200 EMPLOYEE BENEFITS | 300 PURCHASED SERVICES | 400 SUPPLIES & MATERIALS | 500 CAPITAL OUTLAY | 600 OTHER OBJECTS |
|---|---|---|---|---|---|---|---|
| 5000 | INSTRUCTIONAL PROGRAMS | | | | | | |
| 5200 | Special Inst. Programs | | | | | | |
| 5910 | Employee Benefits | | | | | | |
| 6000 | SUPPORTING SERVICES | | | | | | |
| 6110 | Direction of Pupil Support | | | | | | |
| 6120 | Attendance-Social Work Serv. | | | | | | |
| 6130 | Guidance Services | | | | | | |
| 6140 | Health Services | | | | | | |
| 6150 | Psychological Services | | | | | | |
| 6160 | Speech, Pathology, Audiology | | | | | | |
| 6190 | Other Pupil Support Serv. | | | | | | |
| 62 | Improvement of Inst. Serv. | | | | | | |
| 6 | Educational Media Serv. | | | | | | |
| 6320 | Executive Administration | | | | | | |
| 6410 | Office of Principal | | | | | | |
| 6540 | Operation of Plant | | | | | | |
| 6550 | Transportation of Pupils | | | | | | |
| 6560 | Food Services | | | | | | |
| 6580 | Maintenance of Plant | | | | | | |
| 6620 | Planning-Evaluation Serv. | | | | | | |
| 6630 | Information Services | | | | | | |
| 6640 | Staff Services | | | | | | |
| 6660 | Data Processing Services | | | | | | |
| 6910 | Employee Benefits | | | | | | |
| 8000 | NON-PROGRAMMED CHARGES | | | | | | |
| 8100 | Transfer of Funds | | | | | | |
| SUB-TOTAL OF OBJECTS *(Sum of Current Expense & Capital Outlay Totals)* | | | | | | | |

GRAND TOTAL - PROJECT BUDGET *(Sum of Sub-Totals)* $ ____________

North Carolina - Local Projects

OMB NO. 80-R0186

## PART III - BUDGET INFORMATION

### SECTION A - BUDGET SUMMARY

| GRANT PROGRAM, FUNCTION OR ACTIVITY (a) | FEDERAL CATALOG NO. (b) | ESTIMATED UNOBLIGATED FUNDS | | NEW OR REVISED BUDGET | | |
|---|---|---|---|---|---|---|
| | | FEDERAL (c) | NON-FEDERAL (d) | FEDERAL (e) | NON-FEDERAL (f) | TOTAL (g) |
| 1. Instructional Services | 13.429 | $ | $ | $ | $ | $ |
| 2. Support Services | 13.429 | | | | | |
| 3. Staff Development | 13.429 | N/A | N/A | | N/A | |
| 4. Other | 13.429 | | | | | |
| 5. TOTALS | | $ | $ | $ | $ | $ |

### SECTION B - BUDGET CATEGORIES

| 6. OBJECT CLASS CATEGORIES | GRANT PROGRAM, FUNCTION OR ACTIVITY | | | | TOTAL (5) |
|---|---|---|---|---|---|
| | (1) Instructional Services | (2) Support Services | (3) Staff Development | (4) Other | |
| a. PERSONNEL | $ | $ | $ | $ | $ |
| b. FRINGE BENEFITS | | | | | |
| c. TRAVEL | | | | | |
| d. EQUIPMENT | | | | | |
| e. SUPPLIES | | | | | |
| f. CONTRACTUAL | | | | | |
| g. CONSTRUCTION | | | | | |
| h. OTHER | | | | | |
| i. TOTAL DIRECT CHARGES | | | | | |
| j. INDIRECT CHARGES | | | | | |
| k. TOTALS | $ | $ | $ | $ | $ |
| 7. PROGRAM INCOME | $ N/A | $ N/A | $ N/A | $ N/A | $ |

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North Carolina Local Projects

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## SECTION C - NON-FEDERAL RESOURCES

| a GRANT PROGRAM | b APPLICANT | (c) STATE | (d) OTHER SOURCES | (e) TOTALS |
|---|---|---|---|---|
| 8. | $ | $ | $ | $ |
| 9. | | | | |
| 10. | | | | |
| 11. | | | | |
| 12. TOTALS | $ | $ | $ | $ |

NOT APPLICABLE

## SECTION D - FORECASTED CASH NEEDS

| | TOTAL FOR 1ST YEAR | 1ST QUARTER | 2ND QUARTER | 3RD QUARTER | 4TH QUARTER |
|---|---|---|---|---|---|
| 13. FEDERAL | $ | | $ | $ | $ |
| 14. NON-FEDERAL | | | | | |
| 15. TOTALS | $ | $ | $ | $ | $ |

NOT APPLICABLE

## SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

| (a) GRANT PROGRAM | FUTURE FUNDING PERIODS (years) | | | |
|---|---|---|---|---|
| | (b) FIRST | (c) SECOND | (d) THIRD | FOURTH |
| 16. | $ | $ | $ | $ |
| 17. | | | | |
| 18. | | | | |
| 19. | | | | |
| 20. TOTALS | $ | $ | $ | $ |

NOT APPLICABLE

## SECTION F - OTHER BUDGET INFORMATION *(attach additional sheets if necessary)*

21. DIRECT CHARGES:

See attached budget breakdown pages.

22. INDIRECT CHARGES:

Indirect charges are based upon a fixed rate.

23. REMARKS:

## PART IV - PROGRAM NARRATIVE (attach per instructions)

HEW 608

Page ____ of ____

# ITEMIZED BREAKDOWN OF THE BUDGET

ADMINISTRATIVE UNIT: ______________________________ PROGRAM REPORT CODE: ____________

[illegible]UNCTION/SUB-FUNCTION CODE) ______________________ (FUNCTION/SUB-FUNCTION TITLE)

| OBJECT | OBJECT EXPENDITURE ACCOUNT TITLE | AMOUNT |
|---|---|---|
| 100 | SALARIES | |
| | TOTAL 100 SALARIES | $ |
| 300 | PURCHASED SERVICES | |
| | TOTAL 300 PURCHASED SERVICES | $ |
| 400 | SUPPLIES & MATERIALS | |
| | TOTAL 400 SUPPLIES & MATERIALS | $ |
| 500 | CAPITAL OUTLAY | |
| | TOTAL 500 CAPITAL OUTLAY | $ |
| [illegible]00 | OTHER OBJECTS | |
| | TOTAL 600 OTHER OBJECTS | $ |

# ITEMIZED BREAKDOWN OF THE BUDGET

ADMINISTRATIVE UNIT: ____________________ PROGRAM REPORT CODE: __________

5910
(FUNCTION/SUB-FUNCTION CODE)

EMPLOYEE BENEFITS
(FUNCTION/SUB-FUNCTION TITLE)

| OBJECT | OBJECT EXPENDITURE ACCOUNT TITLE | AMOUNT |
|---|---|---|
| 200 | EMPLOYEE BENEFITS | |
| | TOTAL 200 EMPLOYEE BENEFITS | $ |

6910
(FUNCTION/SUB-FUNCTION CODE)

EMPLOYEE BENEFITS
(FUNCTION/SUB-FUNCTION TITLE)

| OBJECT | OBJECT EXPENDITURE ACCOUNT TITLE | AMOUNT |
|---|---|---|
| 200 | EMPLOYEE BENEFITS | |
| | TOTAL 200 EMPLOYEE BENEFITS | $ |

Page ___ of ___

## ITEMIZED BUDGET DETAIL [illegible]RMATION

(Explain all 6000 - Supporting Services)

| EXPENDITURE CODE | EXPENDITURE ITEM | DESCRIPTION |
|---|---|---|
| | | |

Page ___ of ___

## ITEMIZED LIST OF EQUIPMENT BY FUNCTION

ADMINISTRATIVE UNIT: ______________________________ PROGRAM REPORT CODE: ____________

| FUNCTION | OBJECT | DESCRIPTION<br>(List equipment in numerical order by Function) | AMOUNT |
|---|---|---|---|
| | | | |

SUGGESTED FORM FOR REPORTING

## MIGRANT PROGRAM INVENTORY
## OF
## EQUIPMENT PURCHASED IN PRIOR YEARS *

LOCAL EDUCATION AGENCY________________________ UNIT CODE NO.__________ DATE__________

| QUANTITY | CODE | DESCRIPTION | TOTAL COST | FOR STATE USE ONLY |
|---|---|---|---|---|
| | | | | |
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| | | THIS PAGE TOTAL OR GRAND TOTAL | | |

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*The state educational agency maintain's title to and administrative control over equipment purchased with Title I Migrant funds (Sec.116d.9(a)).

## INSTRUCTIONS FOR PREPARING THE EQUIPMENT LIST INVENTORY

1. All items of equipment purchased and/or obligated in prior fiscal year project(s) and coded as 730-A, 730-B, 1230-2-A, B, C, D, E, F, G, H, and I must be listed

2 Combine the quantity of an equipment item when the same type equipment item was purchased and/or obligated in any fiscal year. For example--

   2 Electric Typewriters purchased and/or obligated in fiscal year 1967

   1 Electric Typewriter purchased and/or obligated in fiscal year 1968

   1 Electric Typewriter purchased and/or obligated in fiscal year 1969

   The above information is to be entered as:

   4 Electric Typewriters

3. All equipment items purchased and/or obligated under the same code number should be listed together, with Code 730-A being the first equipment items to be listed, Code 730-B being the second equipment items to be listed, Code 1230-2-A being the third equipment items to be listed, Code 1230-2-B being the fourth equipment items to be listed, etc.

4. The equipment item descriptions should be brief, but descriptive enough to be easily identified. (For example -- Typewriters- wrong; Manual Typewriters - correct).

5. A sub-total should be entered on each page and a grand total on the last page.

FORM APPROVED
OMB NO. 68-R1143

| | |
|---|---|
| DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE<br>**PROTECTION OF HUMAN SUBJECTS CERTIFICATION** | IDENTIFICATION NUMBER *(If known)*<br>☐ Contract ☐ New<br>☐ Grant ☐ Renewal<br>☐ Fellowship ☐ Continuation |

STATEMENT OF POLICY: Safeguarding the rights and welfare of human subjects involved in activities supported by grants or contracts from the DHEW is the responsibility of the institution which receives or is accountable to the DHEW for the funds awarded for the support of the activity. In order to provide for the adequate discharge of this institutional responsibility, it is the policy of the Department that no grant or contract for an activity involving human subjects shall be made unless the application for such support has been reviewed and approved by an appropriate institutional committee. (Reference: "Institutional Guide to DHEW Policy on the Protection of Human Subjects.")

1. TITLE OF PROPOSAL

| | |
|---|---|
| 2. PROJECT DIRECTOR/PROGRAM DIRECTOR/FELLOW<br>POSITION TITLE | 3. INSTITUTIONAL COMPONENT OR DEPARTMENT |

4. CHECK ONE OF THE FOLLOWING STATEMENTS AS APPLICABLE:

☐ A. This application does not propose any activities that would involve human beings who might be considered subjects, human material, or personal data from primary or secondary sources.

☐ B. This is to CERTIFY that this application which does propose activities involving human subjects has been reviewed and approved by our institutional committee on the date of                          in accordance with the DHEW policy and the institutional assurance on file with the DHEW. (The review date should be recent; certification is invalid if review date would precede award date by more than one year.)

☐ C. This is to CERTIFY that this application which proposes to involve human subjects is pending review on the date of                          in accordance with the DHEW policy and the institutional assurance on file with the DHEW. If the committee does not review and approve the proposal by or on the date certified, the agency office requesting this certification will be notified immediately by telephone, telegraph, or mail. (Review date should precede requested or planned date of award by at least one month whenever possible.)

☐ D. This application proposes to involve human subjects. This institution does not now have an active assurance on file with the DHEW. I understand that information on the assurance procedure will be received should the application become eligible for an award.

| | |
|---|---|
| 5. SIGNATURE OF INSTITUTIONAL OFFICIAL AUTHORIZED TO SIGN PROPOSALS | DATE |
| 6. TITLE | TELEPHONE NO. *(Code, No., Extension)* |

7. NAME AND ADDRESS OF INSTITUTION *(Street, City, State, ZIP code)*

NOTE TO AGENCY: This form should NOT be included with application forms that have provision for human subject certification. It may be used to request certification, or correction of certification.

596 (Formerly NIH 1611)

ENCLOSE THIS FORM WITH THE PROPOSAL OR RETURN IT TO THE AGENCY REQUESTING ITS COMPLETION

# ASSURANCE OF COMPLIANCE WITH THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE REGULATION UNDER TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

______________________________ (hereinafter called the "Applicant")
(Name of Applicant)

HEREBY AGREES THAT it will comply with title VI of the Civil Rights Act of 1964 (P.L. 88-352) and all requirements imposed by or pursuant to the Regulation of the Department of Health, Education, and Welfare (45 CFR Part 80) issued pursuant to that title, to the end that, in accordance with title VI of that Act and the Regulation, no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Applicant receives Federal financial assistance from the Department; and HEREBY GIVES ASSURANCE THAT it will immediately take any measures necessary to effectuate this agreement.

If any real property or structure thereon is provided or improved with the aid of Federal financial assistance extended to the Applicant by the Department, this assurance shall obligate the Applicant, or in the case of any transfer of such property, any transferee, for the period during which the real property or structure is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. If any personal property is so provided, this assurance shall obligate the Applicant for the period during which it retains ownership or possession of the property. In all other cases, this assurance shall obligate the Applicant for the period during which the Federal financial assistance is extended to it by the Department.

THIS ASSURANCE is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property, discounts or other Federal financial assistance extended after the date hereof to the Applicant by the Department, including installment payments after such date on account of applications for Federal financial assistance which were approved before such date. The Applicant recognizes and agrees that such Federal financial assistance will be extended in reliance on the representations and agreements made in this assurance, and that the United States shall have the right to seek judicial enforcement of this assurance. This assurance is binding on the Applicant, its successors, transferees, and assignees, and the person or persons whose signatures appear below are authorized to sign this assurance on behalf of the Applicant.

Dated ____________________ __________________________
(Applicant)

By __________________________
(President, Chairman of Board, or comparable authorized official)

__________________________

__________________________
(Applicant's mailing address)

HEW-441
(12-64)

### *Explanation Of*

## HEW FORM NO. 441, ASSURANCE OF COMPLIANCE WITH THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE REGULATION UNDER TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Section 80.4 of the Department of Health, Education, and Welfare's Regulation effectuating Title VI of the Civil Rights Act of 1964 requires that every application to the Department for Federal financial assistance shall contain or be accompanied by an Assurance that the program or facility to be assisted will be conducted or operated in compliance with Title VI of the Civil Rights Act and with all requirements imposed by or pursuant to the Department's Regulation.

Section 80.4 further provides that "the form of the foregoing Assurance and the extent to which like Assurances will be required of subgrantees, contractors, transferees, successors in interest and other participants," shall be specified by the responsible Department official. Under this authority, HEW Form No. 441 has been specified as the form of Assurance which shall apply to all applications for Federal financial assistance (except for continuing state programs which must meet the requirements of Section 80.4(b) and school districts availing themselves of Section 80.4(c) of the Regulation) submitted to the Department after January 3, 1965, also the circumstances have been specified under which an Applicant shall obtain comparable written Assurances of compliance from its subgrantees, contractors, and transferees. (See answers to Questions 11 and 12 below in this regard.)

HEW Form No. 441 constitutes a legally enforceable agreement to comply with Title VI of the Civil Rights Act of 1964, and with all requirements imposed by or pursuant to the Regulation of the Department of Health, Education, and Welfare issued thereunder. Applicants are urged to read the Department's Regulation before executing the Assurance.

The following explanation of the requirements of the Department's Regulation and the examples of the kinds of discriminatory practices prohibited by them are for the guidance of the Applicants.

1. *By executing the Assurance (HEW Form No. 441), what does an Applicant agree to do?*

A. The Applicant agrees to make no distinction on the ground of race, color, or national origin in providing to individuals any service, financial aid, or other benefit under any program receiving Federal financial assistance extended to the Applicant by the Department.

2. *What is meant by "distinction on the ground of race, color, or national origin"?*

A. "Distinction on the ground of race, color, or national origin" includes (1) any type of segregation, separate or different treatment, or other discrimination on that ground; (2) the imposition of any admission, enrollment quota, eligibility, or other requirement or condition which individuals must meet in order to be provided any service, financial aid, or other benefit under a program or to be afforded an opportunity to participate in a program, if the race, color, or national origin of individuals is considered in determining whether they meet any such requirement or condition; (3) the use of membership in a group as a basis for the selection of individuals for any purpose, if in selecting members of the group there is discrimination on the ground of race, color, or national origin; and (4) the assignment of personnel to provide services, or the assignment of times or places for the provision of services, on the basis of the race, color, or national origin of the individuals to be served. It does not, however, include distinctions on the ground of race, color, or national origin determined by the responsible Department official to be necessary to the conduct of research or experimental programs having as their primary objective the discovery of new knowledge concerning special characteristics of particular racial or other ethnic groups.

HEW-441A (12/64)

3 *What is meant by "service, financial aid, or other benefit"?*

A "Service, financial aid, or other benefit" under a program receiving Federal financial assistance includes any education or training, any evaluation, guidance, counseling, or placement service, any health, welfare, rehabilitation, housing, or recreational service, any referral of individuals for any of the foregoing services, any scholarship, fellowship or traineeship stipend or allowance, and any loan or other financial assistance or benefit (whether in cash or in kind), which is made available to individuals (1) with the aid of Federal financial assistance, or (2) with the aid of the Applicant's or of other non-Federal funds required to be made available for the program as a condition to the receipt of Federal financial assistance, or (3) in or through a facility provided with the aid of Federal financial assistance or the non-Federal matching funds referred to in (2)

4 *What requirements are placed on the use of facilities?*

A The Applicant agrees to make no distinction on the ground of race, color, or national origin in making available to individuals the use of any land, building, equipment, or other facility leased, acquired, constructed, improved, or equipped with the aid of Federal financial assistance extended to the Applicant by the Department, including —

(*a*) the use of any room, dormitory, ward, or other space in the facility;

(*b*) the use of any equipment in the facility;

(*c*) the use of any office, waiting room, restroom, eating, recreational, concession, or other accommodation or convenience provided in the facility;

(*d*) the use of any facility not provided with the aid of Federal financial assistance if the availability of such facility is required as a condition to the receipt of Federal financial assistance for the Federally-assisted facility

5 *What requirements are placed on the opportunities to participate in a program receiving Federal assistance?*

A The Applicant agrees to make no distinction on the ground of race, color, or national origin in affording opportunities to individuals to participate (other than as employees) in any program receiving Federal financial assistance extended by the Department to the Applicant, including opportunities to participate —

(*a*) as provid[illegible]ice, financial aid, or other benefit to individuals under the program (e.g., as physicia[illegible]dentists, or other professional practitioners seeking the privilege of practicing in a Fe[illegible] hospital or other facility);

(*b*) as conferee[illegible]sultants, or advisers, or as members of advisory or planning groups, or

(*c*) as volunte[illegible] as voluntary workers, or as patients or other subjects of study or experimentation in research, survey, demonstration, or like programs)

6 *Does that mean that an Applicant who signs the Department's Assurance may nevertheless make distinctions among his employees on the basis of race, color, or national origin?*

A Title VI of the Civil Rights Act does not concern itself with employment practices except where a primary objective of the Federal financial assistance is to provide employment Thus, where a basic objective of the program is to provide employment, the Applicant's employment practices are subject to the Department's Regulation However, even where this is not the case an Applicant may be precluded from engaging in any discriminatory employment practices under the provisions of Title VII of the Civil Rights Act, Executive Orders 10925 and 11114, and the Merit System Regulations

7 *When an Applicant's employment practices are covered by the Department's Regulation, what requirements must be met?*

A The Applicant agrees to make no distinction on the ground of race, color, or national origin in its employment practices (including recruitment or recruitment advertising, hiring, layoff or termination, upgrading, demotion, or transfer, rates of pay or other forms of compensation, and use of facilities) with respect to individuals seeking employment or employed under any program receiving Federal financial assistance extended to the Applicant by the Department, in those programs where a primary objective of the Federal financial assistance is to provide employment to such individuals This includes programs under which the employment is provided —

(*a*) as a means of extending financial assistance to students or to needy persons,

(*b*) to students, fellows, interns, residents, or others in training for related employment including research associates or assistants in training for research work), or

(*c*) to reduce unemployment or to provide remunerative activity to individuals who because of severe handicaps cannot be readily absorbed in the competitive labor market

8. *What effect will the Regulation have on a college or university's admission practices or other practices related to the treatment of students?*

A. An institution of higher education which applies for any Federal financial assistance of any kind must agree that it will make no distinction on the ground of race, color, or national origin in the admission practices or any other practices of the institution relating to the treatment of students.

(*a*) "Student" includes any undergraduate, graduate, professional, or postgraduate student, fellow, intern, student, or other trainee receiving education or training from the institution.

(*b*) "Admission practices" include recruiting and promotional activities, application requirements, eligibility conditions, qualifications, preferences, or quotas used in selecting individuals for admission to the institution, or any program of the institution, as students.

(*c*) "Other practices relating to the treatment of students" include the affording to students of opportunities to participate in any educational, research, cultural, athletic, recreational, social, or other program or activity; the performance evaluation, discipline, counseling of students; making available to students any housing, eating, health, or recreational service; affording work opportunities, or scholarship, loan or other financial assistance to students; and making available for the use of students any building, room, space, materials, equipment, or other facility or property.

9. *Does the Assurance of nondiscrimination apply to the entire operation of an institution?*

A. Insofar as the Assurance given by the Applicant relates to the admission or other treatment of individuals as students, patients, or clients of an institution of higher education, a school, hospital, nursing home, center, or other institution owned or operated by the Applicant, or to the opportunity to participate in the provision of services, financial aid, or other benefits to such individuals, the Assurance applies to the entire institution. In the case of a public school system the Assurance would be applicable to all of the elementary or secondary schools operated by the Applicant.

10. *What about a university which operates several campuses?*

A. Section 80.4(d)(2) of the Regulation provides for a more limited Assurance only where an institution can demonstrate that the practices in part of its operation in no way affect its practice in the program for which it seeks Federal funds. This would be a rare case.

11. *If an Applicant intends to make use of other individuals to help carry out the Federally-assisted program, does the requirement not to discriminate apply to such a subgrantee or contractor?*

A. It does. The Applicant must require any individual, organization, or other entity which it utilizes, to which it subgrants, or with which it contracts or otherwise arranges to provide services, financial aid, or other benefits under, or to assist it in the conduct of, any program receiving Federal financial assistance extended to the Applicant by the Department, or with which it contracts or otherwise arranges for the use of any facility provided with the aid of Federal financial assistance for a purpose for which the Federal financial assistance was extended, to comply fully with Title VI of the Civil Rights Act of 1964 and the Regulation of the Department of Health, Education, and Welfare issued thereunder.

12. *Must this Assurance of nondiscrimination by the subgrantee, etc., be in writing?*

A. In the case (1) of any contractual or other arrangement with another such individual or entity which will continue for an indefinite period or for a period of more than three months, (2) of any subgrant, or (3) of any conveyance, lease, or other transfer of any real property or structures thereon provided with the aid of Federal financial assistance extended to the Applicant by the Department, the Applicant shall obtain from such other person, subgrantee, or transferee, an agreement, in writing, enforceable by the Applicant and by the United States, that such other individual or entity, subgrantee, or transferee will carry out its functions under such subgrant, or contractual or other arrangement, or will use the transferred property, as the case may be, in accordance with Title VI of the Act and the Regulation will otherwise comply herewith.

13. *What obligations does the Applicant have to inform beneficiaries, participants, and others of the provisions of the Regulation?*

A. The Applicant must make available to beneficiaries, participants, and other interested persons information regarding the provisions of the Regulation and protections against discrimination provided under Title VI of the Civil Rights Act. The Department will issue shortly more detailed instructions on carrying out this phase of the Regulation.

14. *What obligations does the Applicant have to keep records and to make them available to the Department?*

A. From time to time, Applicants may be required to submit reports to the Department, and the Regulation provides that the facilities of the Applicant and all records, books, accounts, and other sources of information pertinent to the Applicant's compliance with the Regulation be made available for inspection during normal business hours on request of an officer or employee of the Department specifically authorized to make such inspections. More detailed instructions in this regard will also be forthcoming from the Department in the near future.

15. *Must separate Assurance forms be filed with each application?*

A. As a general rule once a valid Assurance is given it will apply to any further application as long as there is no indication of a failure to comply.

# NORTH CAROLINA MIGRANT PROGRAMS

## LOCAL PROJECT EVALUATION REPORT

LOCAL EDUCATIONAL AGENCY ______________________ PROJECT NUMBER __________

MIGRANT PROJECT DIRECTOR ______________________ DATE SUBMITTED __________
(Signature)

I. Children Served

| | Kindergarten Elementary | | Secondary | | Unclassified | | Totals | |
|---|---|---|---|---|---|---|---|---|
| | Agriculture | Fishing | Agriculture | Fishing | Agriculture | Fishing | Agriculture | Fishing |
| Interstate | | | | | | | | |
| Intrastate | | | | | | | | |
| Formerly Migratory | | | | | | | | |
| Totals | | | | | | | | |

B. Enter the number of migratory children enrolled in MSRTS __________

C. Enter the number of migratory children enrolled in MSRTS who did not receive instructional or supporting services under this project __________

D. If the estimated number of migratory children to be served was not actually enrolled, indicate reason(s).

---

Section 141(a)(6) of Federal Migrant Legislation requires that: "effective procedures including provision for appropriate objective measurements of educational achievement, will be adopted for evaluating at least annually, the effectiveness of the program in meeting the special educational needs of migrant children."

Section 141(a)(7) requires that: "the LEA will make an annual report relating to performance in accordance with specific performance criteria related to program objectives...and will keep such records and afford SEA access to such as needed to assure the correctness and verification of such reports."

In accordance with the provisions of the statutory requirements stated above, each local educational agency must submit within fifteen (15) calendar days after the ending date of the project activities, three (3) copies of the completed evaluation report, including supporting documents and test results, to the State Director of Migrant Programs, Department of Public Instruction, Raleigh, N. C. Retain one copy of your evaluation report in the LEA files.

II. Indicate the number of personnel in your project by position.

| | Number | % of Time |
|---|---|---|
| Directors or Coordinators | | |
| Teachers | | |
| Instructional Aides/Tutors | | |
| Guidance Counselors | | |
| Nurses/Social Workers | | |
| Record Clerks | | |
| Other Program Personnel | | |
| Unpaid Volunteers | | |

For summer programs, indicate the instructional staff to pupil ratio __________.

III. Indicate the basis for grade placement of the children.

| | Yes | No |
|---|---|---|
| Teacher Opinion | | |
| Ability Tests | | |
| Achievement Tests | | |

Other (specify) ______________________________

IV. Number of Children Served by Age and Grade.

| Grade \ Age | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 20+ |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 12 | | | | | | | | | | | | | | | | | |
| 11 | | | | | | | | | | | | | | | | | |
| 10 | | | | | | | | | | | | | | | | | |
| 9 | | | | | | | | | | | | | | | | | |
| 8 | | | | | | | | | | | | | | | | | |
| 7 | | | | | | | | | | | | | | | | | |
| 6 | | | | | | | | | | | | | | | | | |
| 5 | | | | | | | | | | | | | | | | | |
| 4 | | | | | | | | | | | | | | | | | |
| 3 | | | | | | | | | | | | | | | | | |
| 2 | | | | | | | | | | | | | | | | | |
| 1 | | | | | | | | | | | | | | | | | |
| K | | | | | | | | | | | | | | | | | |

V. Indicate the number of interstate migrants served by state

| State | Number of Children | State | Number of Children |
|---|---|---|---|
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

Retype the following items. Follow each item with a full response.

VI. Describe the instructional phase of your program, including prevocational or occupational instruction and experience, classroom organization, special curriculum materials and teaching methods and techniques which have been found to be effective in working with migrant children.

VII. Describe the supporting services in your project, including staff development activities and direct supporting services to the migrant children.

VIII. How was the project coordinated with the regular school program, Title I activities and other programs of Federal, State and local agencies serving migrants in your area?

IX. List each project objective. Follow each objective with a statement indicating the degree to which it was met. Document the attainment of each objective by attaching summaries of test results and student profiles, copies of press releases, monitoring reports, minutes of PAC meetings and other items and documents used in the evaluation process.

X. Provide a narrative report of the outcome of your project as related to the project objectives. This narrative should emphasize the effect of the project activities upon the children and other persons associated with the project.

XI. Describe any activities in the project which resulted from the evaluation of previous migrant projects and changes in project activities which came about as a result of the migrants' needs which were recognized after this project was planned and approved.

XII. Describe any needs of the migrant children which are not being met.

XIII. List three (3) major strengths of the project.

XIV. Provide a full description of any exemplary components of your project. Include information on topic(s), organization for instruction or supportive action, special curriculum materials and methods, and the impact on migrant children.

XV. List three (3) weaknesses of the project.

XVI. Evaluate the effectiveness of the MSRTS in conducting your migrant project.

XVII. List your recommendations for improving your migrant project.

SUGGESTED [illegible]
FOR LEA US[illegible]

NORTH CAROLINA MIGRANT PROGRAM
TEST DATA

LEA ______________________________

Sheet __________ Of __________

*Please use Grade Equivalent Scores whenever possible

| | | Name of Pre-test ______________ Form _____ Level _____ *Score Type _______ | | | | | | Name of Post-test ______________ Form _____ Level _____ *Score Type _______ | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Name of Student | Test Date | Total Score | Reading Score | Math Score | Other Scores (Identify) | | Test Date | Total Score | Reading Score | Math Score | Other Scores (Identify) | |
| | | | | | | | | | | | | | |

SUGGESTED FORM
FOR REPORTING

NORTH CAROLINA MIGRANT PROGRAM
Summary of Test Data

______________________
(Date)

LEA ______________________________

Name of Test ______________________________ *Score Type ________________

| Grade | Number of Students | Date of Pre-test | Pre-test Mean Score | Date of Post-test | Post-test Mean Score | Difference |
|---|---|---|---|---|---|---|
| | | | | | | |

*Please use Grade Equivalent Scores whenever possible.

Analysis of test results:

MIGRANT DATA TRANSMITTAL FORM
(Please type or print)

______________________
(Do not write on this line)

SCHOOL NAME ______________________ SH

SCHOOL I.D. CODE ______________

DATE OF ENROLLMENT ______________ (Month)(Day)(Year)

STUDENT INFORMATION SI ______________ Last Name ______________ First Name ________ Initial

M F Sex (Circle One)

BIRTHDATE ______________ (Mo) (Day) (Year) ______ Age

______________ Student Number ________ Mnemonic

Grade ______________

BIRTH VERIFICATION

Birth Cert. ________

Document ________

Other ________

None ________

PLACE OF BIRTH

City ________

County ________

State ________

Country ________

STUDENT'S HOME BASE

City ________

State ________

MIGRANT STATUS ( Circle One)

| | Agriculture | Fishing |
|---|---|---|
| Interstate | 1 | 4 |
| Intrastate | 2 | 5 |
| Formerly Migratory | 3 | 6 |

STUDENT'S CURRENT ADDRESS CR ______________ Street/Route ________ City ______ State ______ Zip Code

LEGAL PARENTS

Father LPAA ______________ Last Name ______________ First Name

Mother LPAB ______________ Last Name ______________ First Name

CURRENT PARENTS (See Instructions)

CPAA ______________ Last Name ______________ First Name

CPAB ______________ Last Name ______________ First Name

ADDITIONAL INFORMATION

## MIGRANT DATA TRANSMITTAL (MDT) FORM INSTRUCTIONS

*Use For New Enrollments Only*

Two copies of this form should be completed on each child at the time of the first enrollment in the Migrant Student Record Transfer System from this LEA. One copy should be mailed immediately to the MSRTS Terminal, Northeast Regional Education Center, Box 1028, Williamston, N. C. 27892. The other copy should be retained in the LEA files until a printed record is received from the Migrant Student Data Center.

Line SH

Enter the name of the school and school I. D. code provided by the National Migrant Student Data Center. Enter the date of enrollment in the MSRTS, using two digits for each segment of the date, (Enter the date of the most recent move into this school district. Enrollment date may not be more than 12 months prior to the beginning date of the project).

Line SI

Enter the student's name. Circle M for male or F for female. Enter birthdate and/or age using two digits for each segment of the birthdate. Enter student number and mnemonic code assigned by the National Migrant Student Data Center if available. Use proper spelling for all names. Do not use nicknames, "Jr.," "Sr.," III, etc.
Birth verification - Enter "X" in the appropriate space.
Place of birth - Enter the city, county, and state of birth, using the two letter abbreviation adopted by the U. S. Postal Service for the state. If not born in the U. S. A., enter the city and country of birth.
Student's Home Base - Enter the city and state of the student's home-base residence.
Migrant Status - Circle the appropriate numeral.

Line CR

Enter the street or route, city, state and zip code of the student's current address.

LEGAL PARENTS

Line LPAA

Enter the name of the natural or legally adoptive father.

Line LPAB

Enter the name of the natural or legally adoptive mother.

CURRENT PARENTS

Line CPAA

If the male guardian or current father is different from the legal father, enter the name of the current father (step-father, grandfather, guardian, uncle or other responsible male adult standing *in loco parentis*).

Line CPAB

If the female guardian or current mother is different from the legal mother, enter the name of the current mother (step-mother, grandmother, guardian, aunt or other responsible female adult standing *in loco parentis*).

FOR SEA USE ONLY

## MIGRANT EDUCATION CERTIFICATION OF ELIGIBILITY

tudent's Name ______________ ______________ ______________
Last First Initial

Sex ______________ Age ______________ Grade ______________

Date of most recent move into this shcool district ______________
Month Day Year

A copy of this form signed by an authorized school official is to be filed in the LEA for each child at the time of enrollment. A parent or guardian must give consent for enrollment of a child under the formerly migratory provision. This form should be retained in the LEA files for a period of three years after the close of the project for audit purposes.

MIGRANT STATUS - Circle the numeral which indicates the definition under which the above named child is eligible to participate in the migrant education program (kindergarten through grade twelve not to exceed age 21).

| Agriculture | Fishing | |
|---|---|---|
| 1 | 4 | Interstate Migrant - A child who has moved with a parent or guardian within the past year across State boundaries in order that a parent, guardian, or other member of his immediate family might secure temporary or seasonal employment in agriculture, fishing activities, or in related food processing. |
| 2 | 5 | Intrastate Migrant - A child who has moved with a parent or guardian within the past year across school district boundaries within a State in order that a parent, guardian, or other member of his immediate family might secure temporary or seasonal employment in agriculture, fishing activities, or in related food processing. |
| 3 | 6 | Formerly Migratory (Five-Year Migrant) - A child who has been an interstate or intrastate migrant as defined above but who has ceased to migrate within the past five years and now resides in an area in which a migrant education program is provided (Requires parental consent). |

______________ School

______________ Address

Date of enrollment ______________
Month Day Year

Signed ______________
Authorized school official

## PARENTAL CONSENT

My child named above is eligible under the formerly migratory provision and has my consent to participate in the program for migratory children.

Signed ______________

MES (4/76)

Agricultural Activities are any activities on farms or ranches related to the production and processing of cultivated crops, milk, poultry and livestock (for human consumption).
(20 U.S.C. 241c-2)

Fishing activities are any activities directly related to the raising and catching of fish and shellfish from streams, lakes, oceans and to the processing of such fish for initial distribution through commercial market channels.
(20 U.S.C. 421c-2)

PARENT'S OCCUPATION (Check one)

________ Cultivating

________ Harvesting

________ Dairying

________ Poultry/livestock farming

________ Fishing

________ Food processsing

________ Other (Specify) ______________________________

# NORTH CAROLINA MIGRANT EDUCATION MONITORING REPORT*

To: Superintendent____________________ LEA____________________
Project Director____________________ Date of Visit________________
From: Robert E. Youngblood, State Migrant Education Director
Subject: Report of visit to Project Number____________ by____________________

MIGRANT CHILDREN SERVED

By Category:

| | Interstate | Intrastate | Formerly Migratory | Total |
|---|---|---|---|---|
| Agricultural Activities | | | | |
| Fishing Activities | | | | |
| Total | | | | |

MIGRANT STAFF EMPLOYED: Teachers______ Instructional Aides______ Other____________

Explanation of ratings:

0 = Does not apply to this project
1 = Not observed
2 = Does not meet project requirements
3 = Meets current project requirements
4 = Exemplary

The LEA systematically:

| | | | | | | |
|---|---|---|---|---|---|---|
| 1. | Keeps certification of eligibility forms up-to-date | 0 | 1 | 2 | 3 | 4 |
| 2. | Keeps student transfer records up-to-date | 0 | 1 | 2 | 3 | 4 |
| 3. | Keeps MSRTS forms accessible to instructional staff | 0 | 1 | 2 | 3 | 4 |
| 4. | Keeps medical transfer records up-to-date | 0 | 1 | 2 | 3 | 4 |
| 5. | Uses effective recruiting procedures | 0 | 1 | 2 | 3 | 4 |
| 6. | Maintains an equipment inventory up-to-date | 0 | 1 | 2 | 3 | 4 |
| 7. | Provides services to all eligible migrants | 0 | 1 | 2 | 3 | 4 |
| 8. | Uses Administrative Guide effectively | 0 | 1 | 2 | 3 | 4 |
| 9. | Maintains needs assessment data | 0 | 1 | 2 | 3 | 4 |
| 10. | Employs a full project staff of qualified personnel | 0 | 1 | 2 | 3 | 4 |
| 11. | Develops performance objectives | 0 | 1 | 2 | 3 | 4 |
| 12. | Keeps the evaluation process up-to-date | 0 | 1 | 2 | 3 | 4 |
| 13. | Promotes Parent Advisory Committee Activities | 0 | 1 | 2 | 3 | 4 |
| 14. | Uses community agencies and resources | 0 | 1 | 2 | 3 | 4 |
| 15. | Coordinates the project with other school programs | 0 | 1 | 2 | 3 | 4 |
| 16. | Conducts staff development activities | 0 | 1 | 2 | 3 | 4 |
| 17. | Meets ancillary needs of the children | 0 | 1 | 2 | 3 | 4 |
| 18. | Conducts project according to the project proposal | 0 | 1 | 2 | 3 | 4 |

*Refer to the monitoring component in the Administrative Guide.

OTHER FINDINGS

RECOMMENDATIONS

_______ A response is requested. Please indicate, within _______ days, action(s) taken to carry out the recommendation(s) numbered as follows:

# MIGRANT PROJECT MONITORING COMPONENT

A migrant project monitoring report will be completed by the state consultant each time a visit is made to a local migrant project. Copies of this monitoring report will be sent to the superintendent of the LEA and the migrant project director. Copies of all monitoring reports received in the LEA should be used as a basis for project improvement and should be attached to the project evaluation report at the conclusion of the project activities as documentation of the attainment of project objectives.

State consultants monitoring local migrant projects will record their observations on the monitoring report. Project directors are encouraged to monitor their programs to be sure that the project is being conducted according to the approved project application and that it complies with each item listed on the monitoring report. The project director is also requested to acknowledge receipt of the monitoring report and to indicate actions taken as a result of its recommendations.

The state migrant consultant will grade each item on the monitoring report on a five point scale where:

0 = Does not apply to this project
1 = Not observed
2 = Does not meet project requirements
3 = Meets current project requirements
4 = Exemplary

Items included on the monitoring report are as follows:

| | | |
|---|---|---|
| 1. | Certification of Eligibility Forms | A copy of this form signed by a school official is to be filed in the LEA for each child at the time of enrollment. A parent or guardian must give consent for enrollment of a child under the Formerly Migratory Provision. The consultant will examine the certification of eligibility forms and will initial each form which is filled out correctly. |
| 2. | Migrant Student Record Transfer Forms | Either a record print-out or a migrant data transmittal form should be on file for each migrant child enrolled in the program. The form should be up-to-date with all entries having been made, including data on testing, special programs, special interest, etc. |
| 3. | Accessibility of Transfer Records | Copies of the transfer record form should be easily accessible to the instructional staff. |

|  |  |  |
|---|---|---|
| 4. | Medical Transfer Records | Medical transfer forms should be maintained with appropriate entries by the health provider. Medical transfer forms should be accessible to the health provider. |
| 5. | Recruiting Practices | Recruiting is a continuous process and should be carried on throughout the duration of the project. Records of surveys, contacts with agencies serving migrants, etc., should be available for inspection by the migrant consultant. |
| 6. | Equipment Inventory | An equipment inventory should be maintained up-to-date to show each item, year of purchase, location, cost, etc. |
| 7. | Services for Migrant Children | The eligibility and number of children actually beging served, schools in which they are assigned and responsibilities of the migrant staff will be checked to see if the activities are being carried out according to the approved project. All eligible children should be enrolled in the record transfer system and should receive other services according to their individual needs and the approved project proposal. |
| 8. | Administrative Management Guide | The Administrative Management Guide should be used as a tool to assist in keeping routine management activities up-to-date and as a reminder of activities necessary to the administration of an effective program. It should be available for inspection by the consultant. |
| 9. | Needs Assessment Data | Maintains records of test results, student profiles, and other data used to determine educational and social needs of the children. These should be available for inspection. |
| 10. | Migrant Project Staff | A full complement of qualified staff members should be employed to carry out the necessary duties described in the project application. Vacancies occurring in the project staff should be filled as soon as possible. |
| 11. | Performance Objectives | Performance objectives should be developed for each child in each instructional |

| | |
|---|---|
| | and supporting area in which the child participates. These objectives should be based upon an assessment of needs of the child. |
| 12. Evaluation | The state agency's evaluation instrument and the evaluation design described in the project application will determine what actions should be taken at any time during the project in order to satisfy the evaluation requirements. Evaluation is a continuous process and should be kept up-to-date at all times. |
| 13. Parent Advisory Committee | Migrant parents should be represented on the Parent Advisory Committee. Activities of the advisory committee should be reflected by approrpiate records and minutes of meetings. These records should be specific as to the role of the committee in planning, operation and evaluation of the program. |
| 14. Community Agencies and Resources | Services of other agencies should be solicited to meet the supporting needs of the migrant children. Records of contacts with these agencies and services performed by them should be documented. |
| 15. Coordination with other School Programs | The migrant child is eligible for all services provided to other children through the regular state supported school program and other special programs conducted in the school through federal and local funds. He is also eligible for services under the special program for migrant children. The state migrant consultant will observe how the migrant project is coordinated with other school programs. |
| 16. Staff Development Activities | Staff development activities should be planned and conducted according to the project proposal. Records of the staff development activities for migrant staff members should be maintained so that they can be examined by the state consultant. |
| 17. Ancillary Needs | Records of health services and other supportive services should be available for |

| | |
|---|---|
| | examination. Many of the ancillary needs of the students may be met through services provided through other agencies. These services should be used whenever possible and records maintained on the coordination of efforts between the school and the agency providing the service. |
| 18. Program Management | The state consultant will observe all aspects of the project to ascertain if it is being conducted according to the proposal approved in the project application. |

# REPORT OF MISSING EQUIPMENT

To: State Director

From: ______________________________ Date ______________
(Name and Title of Local Director)

Subject: Missing or stolen equipment

The following item of equipment, purchased under the Migrant Education Program is missing:

| ITEM | MODEL | SERIAL NO. | COST |
|---|---|---|---|

This item was discovered missing by ______________________________

on ____________ (Date). The law enforcement authority was notified on __________ (Date)

and officer(s) ______________________________ investigated.

Give details af any break-in or other information relating to the discovery that the item was missing.

______________________________
Local Project Director

Original: State Director
Copy: File

Title to all equipment purchased under a migrant project rests with the State Educational Agency. In order to maintain an accurate accounitng of all equipment it is necessary for this form to be filled out for each item of equipment which may be stolen or otherwise be reported missing from the local educational agency in which it was located. A copy of this form along with a request that the missing item be deleted from the inventory of equipment should be sent to the State Director of Migrant Programs not later than five (5) days after the item is reported missing.

**Fair Chance, Inc.**
10695 Kahlmeyer Drive St. Louis, Missouri 63132 (314) 429-3720

IP TO - ______________________

______________________

______________________

| |
|---|
| DATE SHIPPED |
| WEIGHT |
| |

| | GIRLS ELEM. | | GIRLS HIGH | |
|---|---|---|---|---|
| | QUAN. | | QUAN. | |
| DRESSES | | BAGS | | BAGS |
| SKIRTS | | | | |
| SLACKS | | | | |
| BLOUSES / TOPS | | | | |
| COATS | | | | |
| JACKETS | | | | |
| SWEATERS | | | | |
| SHOES | | | | |
| MISCELLANOUS | | | | |
| SHORTS | | | | |

| | BOYS ELEM. | | BOYS HIGH | |
|---|---|---|---|---|
| | QUAN. | | QUAN. | |
| PANTS | | BAGS | | BAGS |
| SHIRTS | | | | |
| COATS | | | | |
| JACKETS | | | | |
| SWEATERS | | | | |
| T SHIRTS / TOPS | | | | |
| SHOES | | | | |
| | | | | |
| MISCELLANOUS | | | | |
| SHORTS | | | | |

| WOMEN | QUAN. | |
|---|---|---|
| DRESSES | | BAGS |
| SKIRTS - BLOUSES | | |
| COATS - JACKETS | | |
| SWEATERS | | |
| SHOES | | |
| MISCELLANOUS | | |

| MEN | QUAN. | |
|---|---|---|
| PANTS | | BAGS |
| SHIRTS | | |
| COATS - JACKETS | | |
| SWEATERS | | |
| SHOES | | |
| MISCELLANCUS | | |

| | | |
|---|---|---|
| PRE - SCHOOL BOYS | | BAGS |
| PRE - SCHOOL GIRL | | |

| | | |
|---|---|---|
| BABY | | BAGS |

PLEASE RETURN ORIGINAL
COPY TO FAIR CHANCE.

SIGN ______________________

DATE ______________________

# APPENDIX A

# GENERAL EDUCATION PROVISIONS ACT

# GENERAL EDUCATION PROVISIONS ACT,

as amended

(Including amendments made by:
P.L. 92-318, approved June 23, 1972
P.L. 93-380, approved August 21, 1974)

Bureau of School Systems

U.S. OFFICE OF EDUCATION

The following excerpts from the General Education Provisions Act as amended (including amendments made by:

P.L. 92-318, approved June 23, 1972 and

P.L. 93-380, approved August 21, 1974) are

applicable to the administration of Title I Migrant Programs.

## Administration of Education Programs

## Applicability

Sec. 421A. (a) The Commissioner is authorized to delegate any of his functions under any applicable program, except the making of regulations and the approval of State plans, to any officer or employee of the Office of Education.

(b) In administering any applicable program, the Commissioner is authorized to utilize the services and facilities of any agency of the Federal Government and of any other public or nonprofit agency or institution in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursement, as may be agreed upon.

## Limitations on Authority

(c)(1)(A) Except in the case of a law which-

(i) authorizes appropriations for carrying out, or controls the administration of, an applicable program, or

(ii) is enacted in express limitation of the provisions of this paragraph,

no provision of any law shall be construed to authorize the consolidation of any applicable program with any other program. Where the provisions of law governing the administration of an applicable program permit the packaging or consolidation of applications for grants or contracts to attain simplicity or effectiveness of administration, nothing in this subparagraph shall be deemed to interfere with such packaging or consolidation.

(B) No provision of any law which authorizes an appropriation for carrying out, or controls the administration of, an applicable program shall be construed to authorize the consolidation of any such program with any other program unless provision for such a consolidation is expressly made thereby.

(C) For the purposes of this subsection, the term "consolidation" means any agreement, arrangement, or the other procedure which results in

(i) the commingling of funds derived from one appropriation with those derived from another appropriation,

(ii) the transfer of funds derived from an appropriation to the use of an activity not authorized by the law authorizing such appropriation,

(iii) the use of practices or procedures which have the effect of requiring, or providing for, the approval of an application for funds derived from different appropriations according to any criteria other than those for which provision is made (either expressly or implicitly) in the law which authorizes the appropriation of such funds, or this title, or

(iv) as a matter of policy the making of a grant or contract involving the use of funds derived from one appropriation dependent upon the receipt of a grant or contract involving the use of funds derived from another appropriation.

(2)(A) No requirement or condition imposed by a law authorizing appropriations for carrying out any applicable program, or controlling the administration thereof, shall be waived or modified, unless such a waiver or modification is expressly authorized by such law or by a provision of this title or by a law expressly limiting the applicability of this paragraph.

(B) There shall be no limitation on the use of funds appropriated to carry out any applicable program other than limitations imposed by the law authorizing the appropriation or a law controlling the administration of such program; nor shall any funds appropriated to carry out an applicable program be allotted, apportioned, allocated, or otherwise distributed in any manner or by any method different from that specified in the law authorizing the appropriation.

(3) No person holding office in the executive branch of the Government shall exercise any authority which would authorize or effect any activity prohibited by paragraph (1) or (2).

(4) The transfer of any responsibility, authority, power, duty, or obligation subject to this title, from the Commissioner to any other officer in the executive branch of the Government, shall not affect the applicability of this title with respect to any applicable program.

## Collection and Dissemination of Information

Sec. 422. (a) The Commissioner shall-

(1) prepare and disseminate to State and local educational agencies and institutions information concerning applicable programs and cooperate with other Federal officials who administer programs affecting education in desseminating information concerning such programs;

(2) inform the public on federally supported education programs;

(3) collect data and information on applicable programs for the purpose of obtaining objective measurements of the effectiveness of such programs in achieving their purposes; and

(4) prepare and publish an annual report (to be referred to as "the Commissioner's annual report") on (A) the condition of education in the nation, (B) developments in the administration, utilization, and impact of applicable programs, (C) results of investigations and activities by the Office of

Education, and (D) such facts and recommendations as will serve the purpose for which the Office of Education is established (as set forth in section 403(a) of this Act)).* (See p. 4)

(b) The Commissioner's annual report shall be submitted to the Congress not later than March 31 of each calendar year. The Commissioner's annual report shall be made available to State and local educational agencies and other appropriate agencies and institutions and to the general public.

(c) The Commissioner is authorized to enter into contracts with public or private agencies, organizations, groups, or individuals to carry out the provisions of this section.

## Catalog of Federal Education Assistance Programs

Sec. 423. The Commissioner shall prepare and make available in such form as he deems appropriate a catalog of all Federal education assistance programs whether or not such programs are administered by him. The catalog shall-

(1) identify each such program, and include the name of the program, the authorizing statute, the specific Federal administering officials, and a brief description of such program;

(2) set forth the availability of benefits and eligibility restrictions in each such program;

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*("Act" means General Education Provisions Act)

(3) set forth the budget requests for each such program, past appropriations, obligations incurred, and pertinent financial information indicating (A) the size of each such program for selected fiscal years, and (B) any funds remaining available;

(4) set forth the prerequisites, including the cost to the recipient, of, receiving assistance under each such program, and any duties required of the recipient after receiving benefits;

(5) identify appropriate officials, in Washington, District of Columbia, as well as in each State and locality (if applicable), to whom application or reference for information for each such program may be made;

(6) set forth the application procedures;

(7) contain a detailed index designed to assist the potential beneficiary in identifying all education assistance programs related to a particular need or category of potential beneficiaries;

(8) contain such other program information and data as the Commissioner deems necessary or desirable in order to assist the potential program beneficiary to understand and take advantage of each Federal education assistance program; and

(9) be transmitted to Congress with the Commissioner's annual report.

Compilation of Assisted Innovative Projects

Sec. 424. The Assistant Secretary shall publish annually a compilation of all innovative projects assisted under programs administered in the Education Division, including title III and part C of title I, of the Elementary and Secondary Education Act of 1965, in any year funds are used to carry out such programs. Such compilation shall be indexed according to subject, descriptive terms, and locations.

## Review of Applications

Sec. 425. (a) In the case of any applicable program under which financial assistance is provided to (or through) a State educational agency to be expended in accordance with a State plan approved by the Commissioner and in the case of the program provided for in title I of the Elementary and Secondary Education Act of 1965, any applicant or recipient aggrieved by the final action of the State educational agency, and alleging a violation of State or Federal law, rules, regulations, or guidelines governing the applicable program, in (1) disapproving or failing to approve its application or program in whole or part, (2) failing to provide funds in amounts in accord with the requirements of laws and regulations, or (3) terminating further assistance for an approved program, may within thirty days request a hearing. Within thirty days after it receives such a request, the State educational agency shall hold a hearing on the record and shall review such final action. No later than ten days after the hearing the State educational agency shall issue its written ruling, including reasons therefor. If it determines such final action was contrary to Federal or State law, or the rules, regulations, and guidelines, governing such applicable program it shall rescind such final action.

(b) Any applicant or recipient aggrieved by the failure of a State educational agency to rescind its final action after a review under such subsection (a) may appeal such action to the Commissioner. An appeal under this subsection may be taken only if notice of such appeal is filed with the Commissioner within twenty days after the applicant or recipient has been notified by the State educational agency of the results of its review under subsection (a). If, on such appeal, the Commissioner determines the final action of the State educational agency was contrary to Federal law, or the rules, regulations, and guidelines governing the applicable program, he shall issue an order to the State educational agency prescribing appropriate action to be taken by such agency. On such appeal, findings of fact of the State educational agency, if supported by substantial evidence, shall be final. The Commissioner may also issue such interim orders to State educational agencies as he may deem necessary and appropriate pending appeal or review.

(c) Each State educational agency shall make available at reasonable times and places to each applicant or recipient under a program to which this section applies all records of such agency pertaining to any review or appeal such applicant or recipient is conducting under this section, including records of other applicants.

(d) If any State educational agency fails or refuses to comply with any provision of this section, or with any order of the Commissioner under subsection (b), the Commissioner shall forthwith terminate all assistance to the State educational agency under the applicable program affected.

## Technical Assistance

Sec. 426. (a) For the purpose of carrying out more effectively Federal education programs, the Commissioner is authorized, upon request, to provide advice, counsel, and technical assistance to State educational agencies, institutions of higher education, and, with the approval of the appropriate State educational agency, elementary and secondary schools-

(1) in determining benefits available to them under Federal law;

(2) in preparing applications for, and meeting requirements of, applicable programs;

(3) in order to enhance the quality, increase the depth, or broaden the scope of activities under applicable programs; and

(4) in order to encourage simplification of applications, reports, evaluations, and other administrative procedures.

(b) The Commissioner shall permit local educational agencies to use organized and systematic approaches in determining cost allocation, collection, measurement, and reporting under any applicable program, if he determines (1) that the use of such approaches will not in any manner lessen the effectiveness and impact of such program in achieving purposes for which it is intended, (2) that the agency will use such procedures as will insure adequate evaluation of each of the programs involved, and (3) that such approaches are consistent with criteria prescribed by the Comptroller General of the United States for the purposes of audit. For the purpose of this subsection a cost is allocable to a particular cost objective to the extent of relative benefits received by such objective.

(c) The Commissioner's annual report shall contain a statement of the Commissioner's activities under this section.

### Parental Involvement and Dissemination

Sec. 427. In the case of any applicable program in which the Commissioner determines that parental participation at the State or local level would increase the effectiveness of the program in achieving its purposes, he shall promulgate regulations with respect to such program setting forth criteria designed to encourage such participation. If the program for which such determination provides for payments to local educational agencies, applications for such payments shall-

(1) set forth such policies and procedures as will ensure that programs and projects assisted under the application have been planned and developed, and will be operated, in consultation with, and with the involvement of parents of, the children to be served by such programs and projects;

(2) be submitted with assurance that such parents have had an opportunity to present their views with respect to the application; and

(3) set forth policies and procedures for adequate dissemination of program plans and evaluations to such parents and the public.

### Use of Funds Withheld for Failure to Comply With Other Provisions of Federal Law

Sec. 428. At any time that the Commissioner establishes an entitlement, or makes an allotment or reallotment to any State, under any applicable program, he shall reduce such entitlement, allotment, or reallotment by such amount as he determines it would have been reduced, had the data on which the entitlement, allotment, or reallotment is based excluded all data relating to local educational agencies of the State which on the date of the Commissioner's action are ineligible to receive the Federal financial assistance involved because of a failure to comply with title VI of the Civil Rights Act of 1964. Any appropriated funds which will not be paid to a State as a result of the preceding sentence may be used by the Commissioner for grants to local educational agencies of that State in accordance with section 405 of the Civil Rights Act of 1964.

### Authorization to Furnish Information

Sec. 429. The Commissioner is authorized to transfer transcripts or copies of other records of the Office of Education to State and local officials, public and private organizations, and individuals.

## Subpart 2 - Administration: Requirements and Limitations

### Rules: Requirements and Enforcement

Sec. 431. (a) Rules, regulations, guidelines, or other published interpretations or orders issued by the Department of Health, Education, and Welfare or the Office of Education, or by any official of such agencies, in connection with, or affecting, the administration of any applicable program shall contain immediately following each substantive provision of such rules, regulations, guidelines, interpretations, or orders, citations to the particular section or sections of statutory law or other legal authority upon which such provision is based.

(b)(1) No standard, rule, regulation, or requirement of general applicability prescribed for the administration of any applicable program may take effect until thirty days after it is published in the Federal Register.

(2)(A) During the thirty-day period prior to the date upon which such standard, rule, regulation, or general requirement is to be effective, the Commissioner shall, in accordance with the provisions of section 553 of title 5, United States Code, offer any interested party an opportunity to make comment upon, and take exception to, such standard, rule, regulation, or general requirement and shall reconsider any such standard, rule, regulation, or general requirement upon which comment is made or to which exception is taken.

(B) If the Commissioner determines that the thirty-day requirement in paragraph (1) will cause undue delay in the implementation of a regulation, thereby causing extreme hardship for the intended beneficiaries of an applicable program, he shall notify the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Public Welfare of the Senate. If neither committee disagrees with the determination of the Commissioner within 10 days after such notice, the Commissioner may waive such requirement with respect to such regulation.

(c) All such rules, regulations, guidelines, interpretations, or orders shall be uniformly applied and enforced throughout the fifty States.

(d)(1) Concurrently with the publication in the Federal Register of any standard, rule, regulation, or requirement of general applicability as required in subsection (b) of this section, such standard, rule, regulation, or requirement shall be transmitted to the Speaker of the House of Representatives and the President of the Senate. Such standard, rule, regulation, or requirement shall become effective not less than forty-five days after such tramsmission unless Congress shall, by concurrent resolution, find that the standard, rule, regulation, or requirement is inconsistent with the Act from which it derives its authority, and disapprove such standard, rule, regulation, or requirement.

(2) The forty-five-day period specified in paragraph (1) shall be

deemed to run without interruption except during periods when either House is in adjournment sine die, in adjournment subject to the call of the Chair, or in adjournment to a day certain for a period of more than four consecutive days. In any such period of adjournment, the forty-five days shall continue to run, but if such period of adjournment is thirty calendar days, or less, the forty-five-day period shall not be deemed to have elapsed earlier than ten days after the end of such adjournment. In any period of adjournment which lasts more than thirty days, the forty-five-day period shall be deemed to have elapsed after thirty calendar days has elapsed, unless, during those thirty calendar days, either the Committee on Education and Labor of the House of Representatives, or the Committee on Labor and Public Welfare of the Senate, or both, shall have directed its chairman, in accordance with said committee's rules, and the rules of that House, to transmit to the appropriate department or agency head a formal statement of objection to the proposed standard, rule, regulation, or requirement. Such letter shall suspend the effective date of the standard, rule, regulation, or requirement until not less than twenty days after the end of such adjournment, during which the Congress may enact the concurrent resolution provided for in this subsection. In no event shall the standard, rule, regulation, or requirement go into effect until the forty-five-day period shall have elapsed, as provided for in this subsection, for both Houses of the Congress.

(e) Whenever a concurrent resolution of disapproval is enacted by the Congress under the provisions of this section, the agency which issued such standard, rule, regulation, or requirement may thereafter issue a modified standard, rule, regulation, or requirement to govern the same or substantially identical circumstances, but shall, in publishing such modification in the Federal Register and submitting it to the Speaker of the House of Representatives and the President of the Senate, indicate how the modification differs from the proposed standard, rule, regulation, or requirement of general applicability earlier disapproved, and how the agency believes the modification disposes of the findings by the Congress in the concurrent resolution of disapproval.

(f) For the purposes of subsections (d) and (e) of this section, activities under sections 404, 405, and 406 of this title, and under title IX of the Education Amendments of 1972 shall be deemed to be applicable programs.

(g) Not later than sixty days after the enactment of any part of any Act affecting the administration of any applicable program, the Commissioner shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Public Welfare of the Senate a schedule in accordance with which the Commissioner has planned to promulgate rules, regulations, and guidelines implementing such Act or part of such Act. Such schedule shall provide that all such rules, regulations, and guidelines shall be promulgated within one hundred and eighty days after the submission of such schedule. Except as is provided in the following sentence, all such rules, regulations, and guidelines shall be promulgated in accordance with such schedule. If the Commissioner finds that, due to circumstances unforseen at the time of the submission of any such schedule, he cannot comply with a schedule submitted pursuant to this subsection, he shall notify such committees of such finding and submit a new schedule. If both such committees notify the Commissioner of their approval of such new schedule, such rules, regulations, and guidelines shall be promulgated in accordance with such new schedule.

## Prohibition Against Federal Control of Education

Sec. 432. No provision of the Act of September 30, 1950, Public Law 874, Eighty-first Congress; the National Defense Education Act of 1958; the Act of September 23, 1950, Public Law 815, Eighty-first Congress; the Higher Education Facilities Act of 1963; the Elementary and Secondary Education Act of 1965; the Higher Education Act of 1965; the International Education Act of 1966; the Emergency School Aid Act; or the Vocational Education Act of 1963 shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school, or school system, or over the selection of library resources, textbooks, or other printed or published instructional materials by any educational institution or school system, or to require the assignment or transportation of students or teachers in order to overcome racial imbalance.

## Labor Standards

Sec. 433. Except for emergency relief under section 7 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), all laborers and mechanics employed by contractors or subcontractors on all construction and minor remodeling projects assisted under any applicable program shall be paid wages at rates not less than those prevailing on similar construction and minor remodeling in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5). The Secretary of Labor shall have, with respect to the labor standards specified in this section, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

## Audits and Recordkeeping

Sec. 434. (a)(1) Each recipient of Federal funds under any applicable program through any grant, subgrant, contract, subcontract, loan, or other arrangement entered into (other than by formal advertising) shall keep such records as the Assistant Secretary shall prescribe including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such funds are given or used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(2) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall, until the expiration of five years after the completion of the project or undertaking

to which reference is made in paragraph (1), have access, for the purpose of audit and examination, to any books, documents, papers, and records of such recipients which, in the opinion of the Comptroller General, after consultation with the Assistant Secretary, may be related, or pertinent to, the grants, subgrants, contracts, subcontracts, loans, or other arrangements to which reference is made in paragraph (1).

## Simplified State Application

(b)(1)(A) In the case of any State which applies, contracts, or submits a plan, for participation in any applicable program in which Federal funds are made available for assistance to local educational agencies through, or under the supervision of the State educational agency of that State, such State shall submit to, and maintain on file with, the Commissioner a general application meeting the requirements of this subsection. Such general application shall (i) provide for the submission by the State and approval by the Commissioner of an annual program plan with respect to the particular programs in which the State desires to participate and (ii) provide assurances-

(I) that the State will, through its State educational agency, provide for such methods of administration as are necessary for the proper and efficient administration of the programs to which the general application applies;

(II) that the State will make provision for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the States under any applicable program;

(III) that the State will make provision for making such reports as the Commissioner may require to carry out his functions;

(IV) that the State will follow such policies and use such methods and practices of administration as will insure that non-Federal funds will not be supplanted by Federal funds; and

(V) that the State will submit to, and have approved by, the Commissioner an annual program plan in accordance with subparagraph (B).

(B) The annual program plan submitted by any State for any fiscal year with respect to any program to which this paragraph applies shall-

(i) be prepared and administered in a manner consistent with specific State plan requirements of the appropriate applicable statutes affecting the program for which the annual program plan is applicable;

(ii) set forth a statement describing the purposes for which Federal funds will be expended during the fiscal year for which the annual program plan is submitted; and

(iii) comply in all other respects with the specific requirements of the appropriate applicable statutes.

(2) In accordance with determinations and regulations of the Commissioner, the requirements of paragraph (1) shall be in lieu of comparable requirements for State plans applicable statutes authorizing appropriations for programs to which paragraph (1) applies.

(3) In the case of any application for assistance under any applicable program to which paragraph (1) does not apply and with respect to which the Commissioner determines that this section would simplify the administration of an applicable program, each such application shall be submitted to the Commissioner at such time, in such manner, and containing such information as the Commissioner shall prescribe by regulation and, as a precondition for approval, shall-

(A) provide for such methods of administration as are necessary for the proper and efficient administration of the program or project for which application is made;

(B) make provision for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the applicant under the application; and

(C) provide for making such reports as the Commissioner may require to carry out his functions.

(c) Whenever the Commissioner, after reasonable notice and an opportunity for hearing, finds that there has been a failure, by any recipient of funds under any applicable program, to comply substantially with the terms to which such recipient has agreed in order to receive such funds, the Commissioner shall notify such recipient that further payments will not be made to such recipient under that program until he is satisfied that such recipient no longer fails to comply with such terms. Until the Commissioner is so satisfied, no further payments shall be made to such recipient. Pending the outcome of any termination proceeding initiated under this paragraph, the Commissioner may suspend payments to such recipient, after such recipient has been given reasonable notice and opportunity to show cause why such action should not be taken.

(d)(1) If any State has submitted an application for funds under any applicable program under which appropriations for such program are, by the applicable statute, allotted or apportioned among the States or under which the State (or local educational agencies in that State) is entitled to a portion of an appropriation therefor and the Commissioner disapproves such application, or if the Commissioner withholds payments to a State under paragraph (1) of subsection (c), that State shall be entitled to judicial review of the actions of the Commissioner in accordance with the provisions of this paragraph.

(2)(A) If any State, under circumstances qualifying for judicial review under this paragraph, desires judicial review of the Commission's action, such State may, within sixty days of such action, file with the United States Court of Appeals for the circuit in which such State is located a petition for review of such action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which he based the action brought under this division, as provided in section 2112 of title 28, United States Code.

(B) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(C) The court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(e) For the purposes of this section, the term "application" includes-

(1) an application for a grant;

(2) an offer to make a contract;

(3) a State plan for the administration of an applicable program;

(4) State assurances with respect to the administration of such a program; and

(5) any other methods for seeking Federal funds from the Commissioner of Education;

under which an agency, institution, organization, or other organized entity may become the recipient of Federal funds.

## Payments

Sec. 435. Payments pursuant to grants or contracts under any applicable program may be made in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Commissioner may determine.

## Authority to Vest Title to Equipment

Sec. 436. The authority of the Commissioner of Education to make a grant to or contract with a local educational agency or State educational agency as such agencies are defined in sections 801(f) and 801(k) of the Elementary and Secondary Education Act of 1965, under any applicable program, shall include discretionary authority, whenever he determines that it would be in the public interest, to vest title to equipment purchased with grant or contract funds in such agency (or waive accountability to the United States for such equipment) without further obligation to the Government or on such terms or conditions as the Commissioner deems appropriate. The authority provided by this section shall be applicable to equipment purchased with funds provided by grants or contracts made on, before, or after the date of the enactment of this section.

## Responsibility of States to Furnish Information

Sec. 437. (a) The Commissioner shall require that each State submit to him, within sixty days after the end of any fiscal year, a report on the uses of Federal funds in that State under any applicable program for which the State is responsible for administration. Such report shall-

(1) list all grants and contracts made under such program to the local educational agencies and other public and private agencies and institutions within such State during such year;

(2) include the total amount of funds available to the State under each such program for such fiscal year and specify from which appropriation Act or Acts these funds were available;

(3) with respect to the second preceding fiscal year, include a compilation of reports from local educational agencies and other public and private agencies and institutions within such State which sets forth the amount of such Federal funds received by each such agency and the purposes for which such funds were expended;

(4) with respect to such second preceding fiscal year, include a statistical report on the individuals served or affected by programs, projects, or activities assisted with such Federal funds; and

(5) be made readily available by the State to local educational agencies and other public and private agencies and institutions within the State, and to the public.

(b) On or before October 15 of each year, the Commissioner shall submit to the Committee on Labor and Public Welfare of the Senate and to the Committee on Education and Labor of the House of Representatives an analysis of these reports and a compilation of statistical data derived therefrom.

## Protection of the Rights and Privacy of Parents and Students

Sec. 438.(a)(1) No funds shall be made available under any applicable program to any State or local educational agency, an institution of higher education, any community college, any school, agency offering a preschool program, or any other educational institution which has a policy of denying, or which effectively prevents, the parents of students attending any school of such agency, or attending such institution of higher education, community college, school, preschool, or other educational institution, the right to inspect and review any and all official records, files, and data directly related to their children, including all material that is incorporated into each student's cumulative record folder, and intended for school use or to be available to parties outside the school or school system, and specifically including, but not necessarily limited to, identifying data, academic work completed, level of achievement (grades, standardized achievement test scores), attendance data, scores on standardized intelligence, aptitude, and psychological tests, interest inventory results, health data, family background information, teacher or counselor ratings and observations, and verified reports of serious or recurrent behavior patterns. Where such records or data include information on more than one student, the parents of any student shall be entitled to receive, or be informed of, that part of such record or data as pertains to their child. Each recipient shall establish appropriate procedures for the granting of a request by parents for access to their child's school records within a reasonable period of time, but in no case more than forty-five days after the request has been made.

(2) Parents shall have an opportunity for a hearing to challenge the content of their child's school records, to insure that the records

are not inaccurate, misleading, or otherwise in violation of the privacy or other rights of students, and to provide an opportunity for the correction or deletion of any such inaccurate, misleading, or otherwise inappropriate data contained therein.

(b)(1) No funds shall be made available under any applicable program to any State or local educational agency, any institution of higher education, any community college, any school, agency offering a preschool program, or any other educational institution which has a policy of permitting the release of personally identifiable records or files (or personal information contained therein) of students without the written consent of their parents to any individual, agency, or organization, other than to the following-

(A) other school officials, including teachers within the educational institution or local educational agency who have legitimate educational interests;

(B) officials of other schools or school systems in which the student intends to enroll, upon condition that the student's parents be notified of the transfer, receive a copy of the record if desired, and have an opportunity for a hearing to challenge the content of the record;

(C) authorized representatives of (i) the Comptroller General of the United States, (ii) the Secretary, (iii) an administrative head of an education agency (as defined in section 409 of this Act), or (iv) State educational authorities, under the conditions set forth in paragraph (3) of this subsection; and

(D) in connection with a student's application for, or receipt of, financial aid.

(2) No funds shall be made available under any applicable program to any State or local educational agency, any institution of higher education, any community college, any school, agency offering a preschool program, or any other educational institution which has a policy or practice of furnishing, in any form, and personally identifiable information contained in personal school records to any persons other than those listed in subsection (b)(1) unless-

(A) there is written consent from the student's parents specifying records to be released, the reasons for such release, and to whom, and with a copy of the records to be released to the student's parents and the student if desired by the parents, or

(B) such information is furnished in compliance with judicial order, or pursuant to any lawfully issued subpoena, upon condition that parents and the students are notified of all such orders or subpoenas in advance of the compliance therewith by the educational institution or agency.

(3) Nothing contained in this section shall preclude authorized representatives of (A) the Comptroller General of the United States, (B) the Secretary, (C) an administrative head of an education agency or (D) State educational authorities from having access to student or other records which may be necessary in connection with the audit and evaluation of Federally-supported education program, or in connection

with the enforcement of the Federal legal requirements which relate to such programs: Provided, That, except when collection of personally identifiable data is specifically authorized by Federal law, any data collected by such officials with respect to individual students shall not include information (including social security numbers) which would permit the personal identification of such students or their parents after the data so obtained has been collected.

(4)(A) With respect to subsection (c)(1) and (c)(2) and (c)(3), all persons, agencies, or organizations desiring access to the records of a student shall be required to sign a written form which shall be kept permanently with the file of the student, but only for inspection by the parents or student, indicating specifically the legitimate educational or other interest that each person, agency, or organization has in seeking this information. Such form shall be available to parents and to the school official responsible for record maintenance as a means of auditing the operation of the system.

(B) With respect to this subsection, personal information shall only be transferred to a third party on the condition that such party will not permit any other party to have access to such information without the written consent of the parents of the student.

(c) The Secretary shall adopt appropriate regulations to protect the rights of privacy of students and their families in connection with any surveys or data-gathering activities conducted, assisted, or authorized by the Secretary or an administrative head of an education agency. Regulations established under this subsection shall include provisions controlling the use, dissemination, and protection of such data. No survey or data-gathering activities shall be conducted by the Secretary, or an administrative head of an education agency under an applicable program, unless such activities are authorized by law.

(d) For the purposes of this section, whenever a student has attained eighteen years of age, or is attending an institution of post secondary education the permission or consent required of and the rights accorded to the parents of the student shall thereafter only be required of and accorded to the student.

(e) No funds shall be made available under any applicable program unless the recipient of such funds informs the parents of students, or the students, if they are eighteen years of age or older, or are attending an institution of postsecondary education, of the rights accorded them by this section.

(f) The Secretary, or an administrative head of an education agency, shall take appropriate actions to enforce provisions of this section and to deal with violations of this section, according to the provisions of this Act, except that action to terminate assistance may be taken only if the Secretary finds there has been a failure to comply with the provisions of this section, and he has determined that compliance cannot be secured by voluntary means.

(g) The Secretary shall establish or designate an office and review board within the Department of Health, Education, and Welfare for the purpose of investigating, processing, reviewing, and adjudicating violations of the provisions of this section and complaints which may be filed concerning alleged violations of this section, according to the procedures contained in sections 434 and 437 of this Act.*

(2)(i) This section may be cited as the "Family Educational Rights and Privacy Act of 1974".

## Protection of Pupil Rights

Sec. 439. All instructional material, including teacher's manual films, tapes, or other supplementary instructional material which will be used in connection with any research or experimentation program or project shall be available for inspection by the parents or guardians of the children engaged in such program or project. For the purpose of this section "research or experimentation program or project" means any program or project in any applicable program designed to explore or develop new or unproven teaching methods or techniques.

## Limitation on Withholding of Federal Funds

Sec. 440. Except as provided in section 438(b)(1)(D) of this Act,* the refusal of a State or local educational agency or institution of higher education, community college, school, agency offering a preschool program, or other educational institution to provide personally identifiable data on students or their families, as a part of any applicable program, to any Federal office, agency, department, or other third party, on the grounds that it constitutes a violation of the right to privacy and confidentiality of students or their parents, shall not constitute sufficient grounds for the suspension or termination of Federal assistance. Such a refusal shall also not constitute sufficient grounds for a denial of, a refusal to consider, or a delay in the consideration of, funding for such a recipient in succeeding fiscal years. In the case of any dispute arising under this section, reasonable notice and opportunity for a hearing shall be afforded the applicant.

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*(Ed. Note: "Act means General Education Provisions Act")

## Part D - Advisory Councils

### Definitions

Sec. 441. As used in this part, the term-

(1) "advisory council" means any committee, board, commission, council, or other similar group (A) established or organized pursuant to any applicable statute, or (B) established under the authority of section 432; but such term does not include State advisory councils or commissions established pursuant to any such statute;

(2) "statutory advisory council" means an advisory council established by, or pursuant to, statute to advise and make recommendations with respect to the administration or improvement of an applicable program or other related matter;

(3) "nonstatutory advisory council" means an advisory council

which is (A) established under the authority of section 432, or (B) established to advise and make recommendations with respect to the approval of applications for grants or contracts as required by statute;

(4) "Presidential advisory council" means a statutory advisory council, the members of which are appointed by the President;

(5) "Secretarial advisory council" means a statutory advisory council, the members of which are appointed by the Secretary;

(6) "Commissioner's advisory council" means a statutory advisory council, the members of which are appointed by the Commissioner;

(7) "applicable statute" means any statute (or title, part, or section thereof) which authorizes an applicable program or controls the administration of any such program.

### Authorization for Necessary Advisory Councils

Sec. 442.(a) The Commissioner is authorized to create, and appoint the members of, such advisory councils as he determines in writing to be necessary to advise him with respect to-

(1) the organization of the Office of Education and its conduct in the administration of applicable programs;

(2) recommendations for legislation regarding education programs and the means by which the educational needs of the Nation may be met; and

(3) special problems and areas of special interest in education.

(b) Each advisory council created under the authority of subsection (a) shall terminate not later than one year from the date of its creation unless the Commissioner determines in writing not more than thirty days prior to the expiration of such one year that its existence for an additional period, not to exceed one year, is necessary in order to complete the recommendations or reports for which it was created.

(c) The Commissioner shall include in his report submitted pursuant to section 438 a statement on all advisory councils created or extended under the authority of this section and their activities.

### Membership and Reports of Statutory Advisory Councils

Sec. 443 (a). Notwithstanding any other provision of law unless expressly in limitation of the provisions of this section, each statutory advisory council-

(1) shall be composed of the number of members provided by statute who may be appointed, without regard to the provisions of title 5, United States Code, governing appointment in the competitive service, and shall serve for terms of not to exceed three years, which in the case of initial members, shall be staggered; and

(2) shall make an annual report of its activities, findings and recommendations to the Congress not later than March 31 of each calendar year, which shall be submitted with the Commissioner's annual report.

The Commissioner shall not serve as a member of any such advisory council.

(b) Where the President fails to appoint a member to fill a vacancy in the membership of a Presidential advisory council within sixty days after it occurs (or after the effective date of the statute creating such council), then the Secretary shall immediately appoint a member to fill such vacancy.

### Compensation of Members of Advisory Councils

Sec. 444. Members of all advisory councils to which this part is applicable who are not in the regular full-time employ of the United States shall, while attending meetings or conferences of the advisory council or otherwise engaged in the business of the advisory council, be entitled to receive compensation at a rate fixed by the Commissioner, but not exceeding the rate specified at the time of such service for grade GS-18 in section 5332 of title 5, United States Code, including traveltime, and while so serving on the business of the advisory council away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

### Professional, Technical, and Clerical Staff; Technical Assistance

Sec. 445. (a) Presidential advisory councils are authorized to appoint, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, or otherwise obtain the services of, such professional, technical, and clerical personnel as may be necessary to enable them to carry out their functions, as prescribed by law.

(b) The Assistant Secretary shall engage such personnel and technical assistance as may be required to permit Secretarial and Assistant Secretary's advisory councils to carry out their functions as prescribed by law.

(c) Subject to regulations of the Assistant Secretary, Presidential advisory councils are authorized to procure temporary and intermittent services of such personnel as are necessary to the extent authorized by section 3109 of title 5, United States Code, but at rates not to exceed the rate specified at the time of such service for grade GS-18 in section 5332 of such title.

(d) No employee of an advisory council, appointed and compensated pursuant to this section, shall be compensated at a rate in excess of that which such employee would receive if such employee were appointed subject to the appropriate provisions of title 5, United States Code, regarding appointments to, and compensation with respect to, the competitive service, except that-

(1) executive directors of Presidential advisory councils shall be compensated at the rate specified for employees placed in grade 18 of the General Schedule set forth in section 5332 of such title 5;

(2) executive directors of all other statutory advisory councils shall be compensated at the rate provided for employees in

grade 15 of such General Schedule; and

(3) in accordance with regulations promulgated by the Assistant Secretary, other employees of advisory councils shall be compensated at such rates as may be necessary to enable such advisory councils to accomplish their purposes.

## Meetings of Advisory Councils

Sec. 446. (a) Each statutory advisory council shall meet at the call of the chairman thereof but not less than two times each year. Nonstatutory advisory councils shall meet in accordance with regulations promulgated by the Commissioner.

(b) Minutes of each meeting of each advisory council shall be kept and shall contain a record of the persons present, a description of matters discussed and conclusions reached, and copies of all reports received, issued, or approved by the advisory council. The accuracy of all minutes shall be certified to by the chairman of the advisory council.

## Auditing and Review of Advisory Council Activities

Sec. 447. (a) Each statutory advisory council shall be subject to such general regulations as the Commissioner may promulgate respecting the governance of statutory advisory councils and shall keep such records of its activities as will fully disclose the disposition of any funds which may be at its disposal and the nature and extent of its activities in carrying out its functions.

(b) The Comptroller General of the United States, or any of his duly authorized representatives, shall have access, for the purpose of audit and examination, to any books, documents, papers, and records of each advisory council which is subject to the operation of this part.

## Report by the Commissioner of Education

Sec. 448. (a) Not later than March 31 of each calendar year after 1970, the Commissioner shall submit, as part of the Commissioner's annual report, a report on the activities of the advisory councils which are subject to this part to the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives. Such report shall contain, at least, a list of all such advisory councils, the names and affiliations of their members, a description of the function of each advisory council, and a statement of the dates of the meetings of each such advisory council.

(b) If the Commissioner determines that a statutory advisory council is not needed or that the functions of two or more statutory advisory councils should be combined, he shall include in the report a recommendation that such advisory council be abolished or that such functions be combined. Unless there is an objection to such action by either the Senate or the House of Representatives within ninety days after the submission of such report, the Commissioner is authorized to abolish such advisory council or combine the functions of two or more advisory councils as recommended in such report.

## Relation to Other Laws

Sec. 449. (a) No provision of any law establishing, authorizing the establishment of, or controlling the operation of, an advisory council which is not consistent with the provisions of this part shall apply to any advisory council to which this part applies.

(b) The provisions of subsections (e) and (f) of section 10 of the Federal Advisory Committee Act shall not apply to Presidential advisory councils (as defined in section 441).

# APPENDIX B

# GENERAL PROVISIONS FOR PROGRAMS

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# DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

## Office of Education

■

# GENERAL PROVISIONS FOR PROGRAMS

## Administrative and Fiscal Requirements

## Title 45—Public Welfare

## CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### SUBCHAPTER A—GENERAL PROVISIONS FOR OFFICE OF EDUCATION PROGRAMS

### ADMINISTRATIVE AND FISCAL REQUIREMENTS

Notice of proposed rulemaking was published in the FEDERAL REGISTER on April 26, 1973 (38 FR 10386), setting forth general provisions for Office of Education programs. Pursuant to section 503 of the Education Amendments of 1972, a public hearing was held June 5 in Washington, D.C., on the proposed regulations. In addition, written comments were received and considered.

A. *Implementation of OMB Circular No. A-102.* 1. As noted in the preamble of the proposed rule (38 FR 10386), certain of the regulations are derived from OMB Circular No. A-102. In order to complete implementation of the Circular for the Office of Education, and pursuant to the Department's regulation (45 CFR Part 74, published on September 19, 1973, at 38 FR 26274) the general provisions have been substantially renumbered and expanded, as shown in the following table:

| Final rule | Derivation | Proposed rule sections which have been renumbered | |
|---|---|---|---|
| | | Proposed section numbers | Final section numbers |
| 1. Part 100a | | | |
| Subpart A—General | Subpart A of the proposed rule (38 FR 10390). | (1) | (1) |
| Subpart B—Applications | Subpart B of the proposed rule (38 FR 10391). | (1) | (1) |
| Subpart C—Grant Application Forms for State and Local Governments. | 45 CFR Part 74, Subpart N (38 FR 26284). | (2) | (2) |
| Subpart D—Federal Financial Participation. | Subpart C of the proposed rule (38 FR 10393). | 100a.40<br>100a.41<br>100a.42<br>100a.43<br>100a.44<br>100a.45 | 100a.50<br>100a.51<br>100a.52<br>100a.53<br>100a.54<br>100a.55 |
| Subpart E—Grant Payment Requirements. | 45 CFR Part 74, Subpart K (38 FR 26282). | (2) | (2) |
| Subpart F—Cash Depositories | 45 CFR Part 74, Subpart B (38 FR 26277). | (2) | (2) |
| Subpart G—Cost Principles | 45 CFR Part 74, Subpart Q (38 FR 26288) Cf. § 100a.50 of the proposed rule (38 FR 10393). | 100a.50 | 100a.81,<br>100a.82,<br>100a.83 |
| Subpart H—Matching and Cost Sharing. | 45 CFR Part 74, Subpart G (38 FR 26278). | (2) | (2) |
| Subpart I—Procurement Standards | Appendix E to the proposed rule (38 FR 10429).<br>10429). | (1) | (1) |
| Subpart J—Bonding and Insurance | § 100a.165 of the proposed rule (38 FR 10395). | 100a.165 | 100a.120,<br>100.a121,<br>100a.122 |
| Subpart K—Construction Requirements. | Subpart E of the proposed rule (38 FR 10394). | (3) | (3) |
| Subpart L—Property Management Standards. | Subpart F of the proposed rule (38 FR 10396) and 45 CFR 74.130–74.133 (38 FR 26284). | 100a.200<br>100a.201<br>100a.202<br>100a.203 | 100a.215,<br>100a.216<br>100a.217<br>100a.219 |
| Subpart M—Program Income | 45 CFR Part 74, Subpart F (38 FR 26278) Cf. (38 FR 10407). | (2) | (2) |
| Subpart N—Miscellaneous Requirements. | Subpart D of the proposed rule (38 FR 10393). | 100a.63<br>100a.64<br>100a.76<br>100a.80<br>100a.98<br>100a.99<br>100a.100<br>100a.101<br>100a.107<br>100a.110<br>100a.111<br>100a.150 | 100a.250<br>100a.255<br>100a.258<br>(4)<br>100a.260<br>100a.261<br>100a.262<br>100a.263<br>100a.270<br>100a.275<br>100a.276<br>100a.290 |
| Subpart O—Financial Management Systems. | 45 CFR Part 74, Subpart H (38 FR 26279). | (2) | (2) |
| Subpart P—Financial Reporting Requirements. | 45 CFR Part 74, Subpart I (38 FR 26280). | (2) | (2) |
| Subpart Q—Monitoring and Reporting of Program Performance. | 45 CFR Part 74, Subpart J (38 FR 26281). | (2) | (2) |
| Subpart R—Accountability for Federal Funds. | Subpart G of the proposed rule (38 FR 10397) and 45 CFR 74.111 (38 FR 26283). | 100a.277<br>100a.278<br>100a.279<br>100a.280<br>100a.281<br>100a.282<br>100a.283<br>100a.295<br>100a.296 | 100a.477<br>100a.301(h)<br>(5)<br>(5)<br>100a.481<br>100a.482<br>100a.483<br>100a.495<br>(6) |
| 2. Part 100b | | | |
| Subpart A—General | Subpart A of the proposed rule (38 FR 10398). | (1) | (1) |
| Subpart B—State Plans | Subpart B of the proposed rule | (1) | (1) |
| Subpart C—[Reserved] | | | |
| Subpart D—Federal Financial Participation. | Subpart C of the proposed rule | 100b.42<br>100b.43<br>100b.44<br>100b.45<br>100b.50<br>100b.51<br>100b.52 | 100b.52<br>100b.53<br>(7)<br>100b.55<br>100b.81, 100b.82, 100b.83<br>100b.58<br>100b.59 |
| Subpart E—Grant Payment Requirements. | 45 CFR Part 74, Subpart K (38 FR 26282). | (2) | (2) |
| Subpart F—Cash Depositories | 45 CFR Part 74, Subpart B (38 FR 26277). | (2) | (2) |
| Subpart G—Cost Principles | 45 CFR Part 74, Subpart Q (38 FR 26288) Cf. § 100b.50 of the proposed rule (38 FR 10400). | 100b.50 | 100b.81,<br>100b.82,<br>100b.83 |
| Subpart H—Matching and Cost Sharing. | 45 CFR Part 74, Subpart G (38 FR 26279). | (2) | (2) |

The rules and regulations in Parts 100b, 100c and the following appendices of the General Provisions for Programs apply to the administration of migrant education projects.

## PART 100b—STATE ADMINISTERED PROGRAMS

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AUTHORITY: Sec. 403(b)(1), Pub. L. 90-247, 86 Stat. 327 (20 U.S.C. 1221c(b)(1)), unless otherwise noted.

### Subpart A—General

**§ 100b.10 Scope.**

Except to the extent inconsistent with an applicable statute or regulation, the provisions contained in this part apply to all Federal programs of assistance authorized under the following authorities:

(a) Financial assistance to local educational agencies for the education of children of low-income families under title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 241a);

(b) School library resources, textbooks, and other instructional materials under title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 821);

(c) Supplementary educational centers and services; guidance, counseling, and testing under title III of the Elementary and Secondary Education Act of 1965, except section 306 thereof (20 U.S.C. 841);

(d) Assistance to States for education of handicapped children under part B of the Education of the Handicapped Act (20 U.S.C. 1411);

(e) State vocational education programs, research and training in vocational education, exemplary programs and projects, and residential vocational schools—State programs; and consumer and homemaking education, cooperative vocational education programs, and work-study programs for vocational education students under part B, sections 131(b), 142(d), and 152; and parts F, G, and H, respectively, of the Vocational Education Act of 1963 (20 U.S.C. 1262, 1281(b), 1302(d), 1322, 1341, 1351, and 1371);

(f) Programs under the Adult Education Act (except special experimental demonstration projects and teacher training under sections 309 and 314 thereof) (20 U.S.C. 1201);

(g) Programs under the Library Services and Construction Act (20 U.S.C. 351);

(h) Community service and continuing education program under title I of the Higher Education Act of 1965 (20 U.S.C. 1001);

(i) Financial assistance for strengthening instruction in science, mathematics, modern foreign languages, and other critical subjects under title III of the National Defense Education Act of 1958 (20 U.S.C. 441);

(j) Training under section 231(a) of the Manpower Development and Training Act (42 U.S.C. 2601(a)); and

(k) Attracting and qualifying teachers to meet critical teacher shortages under part B-2 of the Education Professions Development Act (20 U.S.C. 1108).

(20 U.S.C. 1221c(b)(1).)

## Subpart B—State Plans

### § 100b.15 Governor's comments.

Prior to the submission to the Commissioner of any State plan, State application, or of any amendment thereto, the State agency shall afford the Governor of such State an opportunity to comment on the relationship of such State plan, application, or amendment to comprehensive and other State plans and programs. The Governor shall be afforded a period of not less than 45 days in which to make such comments. Any such comments, or, if the Governor makes no comments, a statement to that effect, shall be attached to such plan, application, or amendment when the same is submitted to the Commissioner.

(OMB Circular No. A-95.)

### § 100b.29 Budget revisions and minor deviations.

(a) *Needs of State governments.*

The State agency shall notify the Commissioner promptly whenever the amount of Federal authorized funds is expected to exceed the needs of the State agency by more than $5,000 or 5 percent of the amount of Federal authorized funds, whichever is greater.

(OMB Circular No. A-102, attachment K, 2.)

(b) *Deviations from approved budgets.*—Expenditures of State agencies and subgrantees will not be considered ineligible for Federal financial participation solely because of minor deviations from an approved project: *Provided*, That the expenditures in question are made in connection with such project under an approved State plan (or approved State application, as the case may be), in accordance with the applicable Federal statute and regulations, and the total Federal share will not exceed the State's allotment.

(20 U.S.C. 1221c(b)(1).)

### § 100b.32 Effective dates of State plans and amendments.

(a) Federal financial participation is available only with respect to obligations incurred under an approved State plan (or State application, as the case may be), or amendments thereto. The State plan, application, or amendments thereto shall be considered to be in effect as of the date on which they are submitted to the Federal Government by the State in substantially approvable form, but in no event shall the effective date be earlier than July 1 of the fiscal year for which they are submitted. The State agency will be apprised of the effective date in the notice of approval sent to the State agency by the Commissioner.

(b) Federal funds, except funds made available expressly for the development of State plans, shall not be available for obligation with respect to binding commitments (other than those relating to personal services, utility services, travel, or the rental of equipment or facilities) entered into, or with respect to personal services, utility services, travel, or the rental of equipment or facilities rendered or performed by a State agency, prior to the effective date of the State plan (or State application, as the case may be).

(20 U.S.C. 1221c(b)(1).)

## Subpart C—[Reserved]

## Subpart D—Federal Financial Participation

### § 100b.52 Obligation of Federal appropriations.

The notification by the Commissioner to State agencies and Federal agencies of the amounts made available for approval or obligation by those agencies will be regarded as obligating the Government of the United States in the amounts specified. Federal appropriations so obligated will remain available for obligation as prescribed in § 100b.55.

(31 U.S.C. 200.)

### § 100b.53 Payments.

(a) *Payment methods and adjustments.*—Payments to State agencies may be made in installments, and in advance or by way of reimbursement pursuant to Subpart E of this part, with necessary adjustments on account of overpayments or underpayments, as the Commissioner may determine.

(b) *Violations.*—A payment for expenditures which fail to meet the requirements of any of the provisions of applicable Federal statutes or regulations may be taken into account in the determination of any such overpayments and any adjustments relating thereto.

(c) *Adjustment of records.*—Each State agency and subgrantee, in its maintenance of expenditure accounts, records, and reports, shall promptly make any necessary adjustments in its records to reflect refunds, credits, underpayments, or overpayments, resulting from Federal or State administrative reviews and audits or otherwise. Such adjustments shall be set forth in any financial reports required to be filed with the Commissioner.

(20 U.S.C. 1232d.)

### § 100b.55 Obligation by recipients.

(a) *Period for obligation.*—Except as otherwise provided by statute, Federal funds made available for a fiscal year shall remain available for obligation in accordance with paragraph (c) of this section during that fiscal year. Federal funds for construction of school facilities shall remain available for obligation for that purpose for a reasonable period of time as determined by the Commissioner.

(b) *Carryovers.*—In accordance with section 414(b) (20 U.S.C. 1225(b)) of the General Education Provisions Act (P.L. 90-247, title IV, as amended), any Federal funds made available, which are not obligated and expended prior to the beginning of the fiscal year succeeding the fiscal year for which they were made available, shall remain available for obligation and expenditure by the recipient during such succeeding fiscal year.

(c) *Determinations of obligation.*—For the purposes of this section, an obligation of funds will be considered to have been incurred by a recipient on the basis of documentary evidence of binding commitments for the acquisition of goods or property, for the construction of facilities, or for the performance of work. However, the obligation of funds for personal services, for services performed by public utilities, for travel, and for the rental of equipment and facilities shall be considered to have been obligated as of the time such services were rendered, such travel was performed, and such rented equipment and facilities were used, respectively.

(20 U.S.C. 1232c(b)(1).)

### § 100b.58 Tuition and fees.

Tuition and fees collected from students enrolled in courses may not be included as part of the Federal or non-Federal share of expenditures under any Federal program.

(20 U.S.C. 1221c(b)(1).)

### § 100b.59 Religious worship or instruction.

Federal funds shall not be used for the making of any payment for religious worship or instruction, or for the construction, operation, or maintenance of so much of any facility as is used or to be used for sectarian instruction or as a place for religious worship.

(*Lemon* v. *Kurtzman*, 403 U.S. 602 (1971).)

## Subpart E—Grant Payment Requirements

### § 100b.60 Scope of subpart.

This subpart sets forth the methods of making grant payments to State agencies. These methods will minimize the time elapsing between the disbursement by a State agency and the transfer of funds from the United States Treasury to the State agency, whether such disbursement occurs prior to or subsequent to the transfer of funds.

(20 U.S.C. 1232d; OMB Circular No. A-102, Attachment J.)

### § 100b.61 Definitions.

As used in this subpart:

"Advance by Treasury check" is a payment made by a Treasury check to a State agency upon its request or through the use of predetermined payment schedules before payments are made by the State agency.

"Letter of credit" is an instrument certified by an authorized official of the Office of Education which authorizes a State agency to draw funds when needed from the Treasury, through a Federal Reserve Bank and the State agency's commercial bank, in accordance with the provisions of Treasury Circular No. 1075.

"Percentage of completion method" refers to a system under which payments are made to the recipient of a construction grant according to a schedule which relates the amount and timing of each payment primarily or solely to the actual percentage of completion of the construction work under the grant rather than to the State agency's actual rate of disbursements.

"Reimbursement by Treasury check" is a payment made to a State agency with a Treasury check upon request for reimbursement from the State agency.

(20 U.S.C. 1232d; OMB Circular No. A-102, Attachment J.)

### § 100b.62 Payment methods for nonconstruction grants.

(a) Letters of credit will be used to pay State agencies when all of the following conditions exist:

(1) There is or will be a continuing relationship between the State agency and the responsible department finance office for at least a twelve-month period and the total amount of advances to be received from the finance office is $250,000 or more, as prescribed by Treasury Circular No. 1075;

(2) The State agency has established, or demonstrated to the Commissioner, the willingness and ability to establish procedures that will minimize the time elapsing between the transfer of funds from the Treasury and their disbursement by the State agency; and

(3) The State agency's financial management system meets the standards for fund control and accountability prescribed in Subpart P of this part.

(b) Advances by Treasury check will be used, in accordance with the provisions of Treasury Circular No. 1075, when the State agency meets all of the requirements specified in paragraph (a) of this section except those in paragraph (a)(1) of this section.

(c) Reimbursement by Treasury check will be the preferred (although not mandatory) method when the State agency does not meet the requirements specified in either or both of paragraphs (a)(2) and (a)(3) of this section. This method may also be used when the major portion of the program is accomplished through private market financing or Federal loans, and the Federal assistance constitutes a minor portion of the program.

(d) State agencies will be authorized to submit no less often than monthly their requests for advances or reimbursements when letters of credit or predetermined automatic Treasury check advances are not used.

(20 U.S.C. 1232d, OMB Circular No. A-102, Attachment J.)

### § 100b.63 Payment methods for construction grants.

(a) The percentage of completion method will not be used to pay construction grants.

(b) Reimbursement by Treasury check shall be the preferred method when the State agency does not meet the requirements specified in § 100b.62(a) (2) and (3), and may be used for any other construction grant except where the Commissioner has entered into an agreement with a State agency to use a letter of credit for all Federal assistance, including assistance for construction.

(c) When the reimbursement by Treasury check method is used, State agencies will be authorized to submit no less often than monthly their requests for reimbursement.

(d) When the reimbursement by Treasury check method is not used, § 100b.62 (a) and (b) shall be applicable to the construction grant. Implementing procedures under § 100b.62 (a) and (b) will be insofar as possible the same for construction grants as for nonconstruction grants awarded to the same State agency.

(20 U.S.C. 1232d; OMB Circular No. A-102, Attachment J.)

### § 100b.64 Withholding of payments.

Unless otherwise required by law, payments for proper charges incurred by State agencies will not be withheld unless the grant is suspended pursuant to law, or the State agency is indebted to the United States, and collection of the indebtedness will not impair the accomplishment of the objectives of any grant program sponsored by the United States. When an indebtedness is to be collected, the Commissioner may, upon reasonable notice to the State agency, withhold from the State agency the right to receive payments under the grant or require appropriate accounting adjustments to recorded cash balances for which the State agency is accountable to the Federal Government, in order to liquidate the indebtedness.

(20 U.S.C. 1232d; OMB Circular No. A-102, Attachment J.)

### § 100b.65 Requesting advances or reimbursements.

Subpart P of this part sets forth the procedures and forms for requesting advances or reimbursements.

(20 U.S.C. 1232d; OMB Circular No. A-102, Attachment J.)

## Subpart F—Cash Depositories

### § 100b.70 Physical segregation and eligibility.

Except as provided in § 100b.71,

(a) Physical segregation of cash depositories for Federal funds which are provided to a State agency is not required; and

(b) There will be no eligibility requirements for cash depositories in which Federal funds are deposited by State agencies or their subgrantees.

(OMB Circular No. A-102, Attachment A.)

### § 100b.71 Checks-paid basis letter of credit.

A separate bank account shall be used when payments under letter of credit are made on a "check-paid" basis in accordance with agreements entered into by a State agency, the Federal Government, and the banking institutions involved. A checks-paid basis letter of credit is one under which funds are not drawn from the Treasury until the State agency's checks have been presented to its bank for payment.

(OMB Circular No. A-102, Attachment A.)

### § 100b.72 Minority-owned banks.

Consistent with the national goal of expanding opportunities for minority business enterprises, State agencies are encouraged to use minority-owned banks.

(OMB Circular No. A-102, Attachment A.)

## Subpart G—Cost Principles

### § 100b.80 Scope of subpart.

This subpart establishes the principles to be used (except to the extent inconsistent with an applicable Federal statute or regulation) in determining allowability of costs under Federal programs subject to this part, including sub-grants and cost-type contracts awarded by State agencies.

(20 U.S.C. 1221c(b)(1); OMB Circular Nos. A-21, A-87.)

### § 100b.81 State and local governments.

The principles to be used in determining the allowable costs of activities conducted or administered by State and local governments are set forth in Appendix B to this subchapter.

(OMB Circular No. A-87.)

### § 100b.82 Institutions of higher education.

(a) *Research and development.* The principles for determining the allowable costs of research and development work performed by institutions of higher education are set forth in Part I of Appendix C to this subchapter.

(b) *Training and other educational services.* The principles for determining the allowable costs of training and other educational services provided by institutions of higher education are set forth in Part II of Appendix C of this subchapter.

(c) *Other activities.* Appendix C of this subchapter shall be used as a guide for determining the allowable costs of other activities conducted by institutions of higher education.

(OMB Circular No. A-21.)

### § 100b.83 Nonprofit organizations.

(a) *Nonconstruction.* The principles for determining the allowable costs of nonconstruction activities conducted by nonprofit organizations other than institutions of higher education, hospitals, States, and local governments are set forth in Appendix D to this subchapter.

(b) *Construction.* Appendix D to this subchapter shall be used as a guide for determining the allowable costs of construction by nonprofit organizations (other than institutions of higher education, hospitals, States, and local governments).

(20 U.S.C. 1221c(b)(1).)

### § 100b.81 Subgrants and cost-type contracts.

(a) It should be noted that the cost principles applicable to a subgrantee or cost-type contractor under a grant will not necessarily be the same as those applicable to the State agency. For example, where a State agencely awards a subgrant or cost-type contract to an institution of higher education, Appendix C to this subchapter would apply to the costs incurred by the institution of higher education, even though Appendix B to this subchapter would apply to the costs incurred by the State.

(b) The principles to be used in determining the allowable costs of work performed by commercial organizations under cost-type contracts awarded to them are set forth in 41 CFR Subpart 1-15.2.

(20 U.S.C. 1221c(b)(1).)

## Subpart H—Matching and Cost Sharing

### § 100b.90 Purpose and scope.

This subpart sets forth criteria and procedures for the allowability and evaluation of cash and in-kind contributions in satisfying matching or cost sharing requirements applicable to State agencies.

(OMB Circular No. A-102, Attachment F.)

### § 100b.91 Definitions.

"Cash contributions" means the State agency's cash outlay, including the outlay of money contributed to the State agency by third parties. Unless authorized by Federal legislation, outlays charged to other Federal grants or to Federal contracts may not be considered as cash contributions of the State agency.

"In-kind contributions" represent the value of noncash contributions provided by the State agency or third parties. In-kind contributions may consist of charges for real property and nonexpendable personal property, and the value of goods to the federally-supported activity. Unless otherwise authorized by Federal legislation, charges for property purchased wholly with Federal funds, and charges based on the Federal share of the value of property purchased partly with Federal funds, may not be considered as the State agency's in-kind contributions.

"Matching or cost sharing" represents, in general, that portion of project costs not borne by the Federal Government.

"Project costs" means the sum of (a) the allowable costs incurred by the State agency and (b) the allowable in-kind contributions made by third parties.

(OMB Circular No. A-102, Attachment F.)

### § 100b.92 Allowability.

(a) Matching or cost sharing may consist of:

(1) Charges incurred by the State agency as project costs. Not all charges require cash outlays during the grant period by the State agency; examples are depreciation and use allowances for buildings and equipment.

(2) Project costs financed with cash contributed or donated to the State agency by third parties.

(3) Project costs represented by in-kind contributions made by non-Federal third parties. Where in-kind contributions are made by the Federal Government, they may be included in the State agency's matching or cost sharing only if Federal legislation authorizes such inclusion.

(b) All contributions whether cash or in-kind (including in-kind contributions from third parties) shall be accepted as part of the State agency's matching or cost sharing when such contributions:

(1) Are identifiable from the State agency's records,

(2) Are not included as contributions for any other federally assisted program, or any Federal contract,

(3) Are necessary and reasonable for proper and efficient accomplishment of project objectives,

(4) If made by the State agency, are types of costs which are allowable under the applicable cost principles specified in Subpart G of this part,

(5) Are not borne by the Federal Government directly or indirectly under any Federal grant or contract (unless the other grant or contract may, under authority of law, be used for matching or cost sharing), and

(6) Conform to other applicable provisions of this subpart.

(OMB Circular No. A-102, Attachment F.)

### § 100b.93 Valuation of in-kind contributions from third parties.

(a) *Valuation of volunteer services.*—(1) *General.* Volunteer services may be furnished by professional and technical personnel, consultants, and other skilled and unskilled labor. Volunteered service may be counted as matching or cost sharing if it is an integral and necessary part of an approved program.

(2) *Rates for volunteer services.* Rates for volunteers should be consistent with those regular rates paid for similar work in other activities of the State agency. In cases where the kinds of skills required for the federally assisted activities are not found in the other activities of the State agency, rates used should be consistent with those paid for similar work in the labor market in which the State agency competes for the kind of services involved.

(3) *Volunteers employed by other organizations.* When an employer other than the State agency furnishes the services of an employee, these services shall be valued at the employee's regular rate of pay (exclusive of fringe benefits and overhead cost): *Provided,* These services are in the same skill for which the employee is normally paid.

(b) *Valuation of donated real or tangible personal property, or use thereof*—(1) *Donation of title.* If the donor transfers title to the property, the amount to be allowed as matching or cost sharing shall be determined as if the State agency had purchased the property and had paid the fair market value of the property at the time of transfer.

(2) *Donation of use.* If only use of the property is donated, and the donor retains title, the amount to be allowed as matching or cost sharing shall be determined as if the State agency had rented the property and had paid the property's fair rental value.

(3) *Appraisal.* The Commissioner may require that the value of real property be established by an independent appraiser (i.e., a private realty firm or a General Services Administration representative) and certified by the responsible official of the State agency as a precondition to allowability for matching or cost sharing purposes.

(c) *Valuation or other in-kind contributions by third parties.* Other necessary in-kind contributions made by third parties specifically for and in direct benefit to the Federal program may be accepted as matching or cost sharing: *Provided,* That they are adequately supported and permissible under the law. Such charges must be reasonable and properly justifiable.

(OMB Circular No. A-102, Attachment F.)

### § 100b.94 Supporting records for in-kind contributions from third parties.

The following requirements pertain to the State agency's supporting records for in-kind contributions from third parties:

(a) The extent of volunteer services must be supported by the same methods used by the State agency for its employees.

(b) The basis for determining the charges for personal services, material, equipment, buildings, and land must be documented.

(OMB Circular No. A-102, Attachment F.)

## Subpart I—Procurement Standards

### § 100b.100 Scope of subpart.

This subpart provides standards for use by State agencies in establishing procedures for the procurement of supplies, equipment, construction, and other services whose cost is borne in whole or in part as a direct charge by the Federal Government. These standards are furnished to insure that such materials and services are obtained in an effective manner and in compliance with the provisions of applicable Federal Law and Executive Orders.

(OMB Circular No. A-102, Attachment O.)

### § 100b.101 General.

(a) State agencies may use their own procurement policies provided that procurements whose cost is borne in whole or in part as a direct charge by the Federal Government adhere to the standards set forth in this subpart.

(b) The standards contained in this subpart do not relieve the State agency of the responsibilities arising under its contracts. The State agency is the responsible authority regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurements entered into in support of a grant. This includes but is not limited to: Disputes, claims, protests of award, source evaluation, or other matters of a contractual nature. Matters concerning violation of law are to be referred to such local, State, or Federal authority as may have proper jurisdiction.

(OMB Circular No. A 102, Attachment O.)

### § 100b.102 Code of conduct.

The State agency shall maintain a code or standard of conduct which shall govern the performance of its officers, employees, or agents in contracting with and expending Federal funds. The State agency's officers, employees or agents, shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or potential contractors. To the extent permissible under State or local law, rules or regulations, such standards shall provide for appropriate penalties, sanctions, or other disciplinary actions to be applied for violations of such standards either by the State agency's officers, employees, or agents, or by contractors or their agents.

(OMB Circular No. A 102, Attachment O.)

### § 100b.103 Free competition.

All procurement transactions of the State agency, regardless of whether negotiated or advertised and without regard to dollar value, shall be conducted in a manner so as to provide maximum open and free competition. The State agency should be alert to organizational conflicts of interest or noncompetitive practices among contractors which may restrict or eliminate competition or otherwise restrain trade.

(OMB Circular No. A 102, Attachment O.)

### § 100b.104 Procedural requirements.

The State agency shall establish procurement procedures which provide for, as a minimum, the following:

(a) Proposed procurement actions shall be reviewed by appropriate officials of the State agency to avoid purchasing unnecessary or duplicative items. Where appropriate, an analysis shall be made of lease and purchase alternatives to determine which would be the most economical, practical procurement.

(b) Invitations for bids or requests for proposals shall be based upon a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition. "Brand name or equal" description may be used as a means to define the performance or other salient requirements of a procurement and, when so used, the specific features of the named brand which must be met by offerors should be clearly specified.

(c) Positive efforts shall be made by the State agency to utilize small business and minority-owned business sources of supplies and services. Such efforts should allow these sources the maximum feasible opportunity to compete for contracts to be performed under Federal grants.

(d) The type of procuring instruments used (i.e., fixed-price contracts, cost reimbursable contracts, purchase orders, incentive contracts, etc.) shall be appropriate for the particular procurement and for promoting the purposes of the Federal program involved. The "cost-plus-a-percentage-of-cost" method of contracting shall not be used.

(e) Formal advertising, with adequate purchase description, sealed bids, and public openings shall be the required method of procurement unless negotiation pursuant to § 100b.105 is necessary to accomplish sound procurement. However, procurements of $2,500 or less need not be so advertised unless otherwise required by State or local law or regulations. When formal advertising is employed:

(1) The awards shall be made to the responsible bidder whose bid is responsive to the invitation and is most advantageous to the State agency, price and other factors considered. Factors such as discounts, transportation costs, and taxes may be considered in determining the lowest bid.

(2) Invitations for bids shall clearly set forth all requirements which the bidder must fulfill in order for his bid to be evaluated by the State agency.

(3) Any or all bids may be rejected when it is in the State agency's interest to do so, and such rejections are in accordance with applicable State or local law, rules, and regulations.

(OMB Circular No. A-102, Attachment O.)

### § 100b.105 Negotiated procurements.

(a) Procurements may be negotiated by the State agency if it is not practicable or feasible to use formal advertising. Generally, procurements may be negotiated if one or more of the following conditions prevail:

(1) The public exigency will not permit the delay incident to advertising;

(2) The material or service to be procured is available from only one person or firm; all contemplated sole source procurements where the aggregate expenditure is expected to exceed $5,000 shall be referred to the Commissioner for prior approval;

(3) The aggregate amount involved does not exceed $2,500;

(4) The contract is for personal or professional services, or for any service to be rendered by a university, college, or other educational institution;

(5) The material or services are to be procured and used outside the limits of the United States and its possessions;

(6) No acceptable bids have been received after formal advertising;

(7) The purchases are for highly perishable materials or medical supplies, for material or services where the prices are established by law, for technical items or equipment requiring standardization and inter-changeability of parts with existing equipment, for experimental, developmental or research work, for supplies purchased for authorized resale, and for technical or specialized supplies requiring substantial initial investment for manufacture; or

(8) Negotiation is otherwise authorized by applicable Federal, State, or local law, rules or regulations.

(b) Notwithstanding the existence of circumstances justifying negotiation, competition shall be obtained to the maximum extent practicable.

(OMB Circular No. A-102, Attachment O.)

### § 100b.106 Contractor responsibility.

Contracts shall be made by State agencies only with responsible contractors who possess the potential ability to perform successfully under the terms and conditions of a proposed procurement. Consideration shall be given to such matters as contractor integrity, record of past performance, financial and teechnical resources, and accessibility to other necessary resources.

(OMB Circular No. A-102, Attachment O.)

### § 100b.107 Records for negotiated procurements by State agencies.

The procurement records or files of State agencies for negotiated purchases in amounts in excess of $2,500 shall include the following pertinent information: Justification for the use of negotiation in lieu of advertising, contractor selection, and the basis for the cost or price negotiated. Justification for the use of negotiation in lieu of advertising may be provided on a class basis or on an individual contract basis.

(OMB Circular No. A-102, Attachment O.)

### § 100b.108 Contract administration system.

A system for contract administration shall be maintained by the State agency to assure contractor compliance with terms, conditions, and specifications of the contract or order, and to assure adequate and timely follow-up of all purchases.

(OMB Circular No. A-102, Attachment O.)

### § 100b.109 Contract and subgrant provisions.

(a) *General.* (1) The State agency shall include provisions to define a sound and complete agreement in all contracts and subgrants which it awards when the contract or subgrant costs are to be borne as a direct charge in whole or in part by Federal funds.

(2) In awarding contracts, the State agency must comply with the applicable requirements of paragraphs (b) and (c) of this section.

(3) In awarding subgrants, the State agency must comply with the applicable requirements of paragraph (c) of this section.

(b) *Contracts under grants.* (1) The State agency's contracts shall contain contractual provisions or conditions which will allow for administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate.

(2) All contracts awarded by State agencies in excess of $2,500 shall contain suitable provisions for termination by the State agency including the manner by which it will be effected and the basis for settlement. In addition, such contracts shall set forth the conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.

(3) In all contracts for construction or facility improvement awarded in excess of $100,000, the bonding requirements set forth in Subpart J of this part shall be observed.

(4) All negotiated contracts (except those of $2,500 or less) shall include provisions giving access to, and requiring retention of, the contractor's records in accordance with § 100b.477.

(c) *Subgrants.* (1) Provisions for compliance with Executive Order No. 11246, entitled, "Equal Employment Opportunity," as implemented in Department of Labor regulations (41 CFR Part 60) shall be included in all subgrants to which they are applicable.

(2) All subgrants in excess of $2,000 for construction or repair shall include a provision for compliance with the Copeland "Anti-Kick Back" Act (18 U.S.C. 874) as implemented in Department of Labor regulations (29 CFR Part 3). The State agency shall report all suspected or reported violations to the Commissioner.

(3) All research or development agreements, whether contracts or subgrants, shall contain a notice to the effect that rights to inventions conceived or first actually reduced to practice in the course of or under the agreement shall be governed by the Department's Patent Regulations (Parts 6 and 8 of this title), implementing terms and conditions of the grant, and any pertinent regulations or other requirements consistent therewith issued by the State agency. The State agency shall assure that the performer of the research or development work either is given all necessary information regarding these matters, or is advised as to the source of such information. This subparagraph shall also apply to nonresearch and nondevelopment awards in fields of science or technology in which there has been little significant experience outside of work funded by the Federal Government.

(4) Each contract of an amount in excess of $2,500 awarded by a State agency or subgrantee shall provide that the contractor will comply with applicable regulations and standards of the Cost of Living Council in establishing wages and prices. The provision shall advise the contractor that submission of a bid or offer or the submittal of an invoice or voucher for property, goods, or services furnished under a contract or agreement with the State agency or subgrantee shall constitute a certification by him that amounts to be paid do not exceed maximum allowable levels authorized by the Cost of Living Council regulations or standards. Suspected violations shall be reported by the State agency in writing to the local Internal Revenue Service field office with a copy to the Commissioner.

(5) Contracts and subgrants in excess of $100,000 shall contain a provision which requires compliance with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act of 1970 as amended (42 U.S.C. 1857b, et seq.). Suspected violations shall be reported by the State agency in writing to the regional office of the United States Environmental Protection Agency, with a copy to the Commissioner.

(OMB Circular No. A-102, Attachment O.)

## Subpart J—Bonding and Insurance

### § 100b.120 General.

State agencies shall observe their regular requirements and practices with respect to bonding and insurance. No additional bonding and insurance requirements will be imposed, including fidelity bonds, except as provided in §§ 100b.121 and 100b.122.

(OMB Circular No. A-102, Attachment B.)

### § 100b.121 Construction and facility improvement.

A State agency which receives a grant which requires contracting for construction or facility improvement (including any grant which provides for alterations or renovations of real property) shall follow its own requirements and practices relating to bid guarantees, performance bonds, and payment bonds except for contracts exceeding $100,000. For contracts exceeding $100,000, the minimum requirements shall be as follows:

(a) *A bid guarantee from each bidder equivalent to five percent of the bid price.* The bid guarantee shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.

(b) *A performance bond on the part of the contractor for 100 percent of the contract price.* A performance bond is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under the contract.

(c) *A payment bond on the part of the contractor for 100 percent of the contract price.* A payment bond is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

(OMB Circular No. A-102, Attachment B.)

### § 100b.122 Loan guarantees.

Where in connection with a grant, the Commissioner also guarantees the payment of money borrowed by the State agency, the Commissioner may, at his discretion, require adequate bonding and insurance if the bonding and insurance requirements of the State agency are not deemed to be sufficient to protect adequately the interests of the Federal Government.

(OMB Circular No. A-102, Attachment B.)

## Subpart K—Construction Requirements

### § 100b.155 Scope.

The provisions contained in this subpart apply to recipients of Federal financial assistance for construction under Federal programs under which construction is authorized by law.

(20 U.S.C. 1221c(b)(1).)

### § 100b.156 Definition.

For the purposes of this subpart, the term "facilities" means one or more structures in one or more locations, constructed pursuant to this subpart.

(20 U.S.C. 1221c(b)(1).)

### § 100b.157 Manner of construction.

Construction must be functional, undertaken in an economical manner, and not elaborate in design or extravagant in the use of materials in comparison with facilities of a similar type constructed in the State (or other applicable geographic area) within such period as may be designated by the State agency as appropriate for the purposes of this section.

(20 U.S.C. 1221c(b)(1).)

### § 100b.158 Timeliness of work.

The recipient shall cause work on the project to be commenced within a reasonable time after receipt of notification from the State agency that funds have been awarded, and the project shall be prosecuted to completion with reasonable diligence.

(20 U.S.C. 1232c(b)(1).)

### § 100b.159 Commencement of construction.

(a) Approval by the State agency of the final working drawings and specifications shall be obtained before the proposed construction is advertised or placed on the market for bidding.

(b) The construction shall go to final completion in accordance with the application and approved drawings and specifications.

(c) The recipient shall submit to the State agency for prior approval changes that materially alter the scope or costs of the project, use of space, or functional layout.

(20 U.S.C. 1221c(b)(1).)

### § 100b.160 Civil rights assurance.

If an assurance of compliance with title VI of the Civil Rights Act of 1964 (Form HEW 441) applying to the facility described in the application has not been filed, such an assurance shall be attached to the application.

(42 U.S.C. 2000d.)

### § 100b.161 Title to site.

The recipient shall have, or shall obtain, a fee simple or such other estate or interest in the site, including access thereto, as is sufficient to assure undisturbed use and possession of the facilities for not less than the useful life of the facilities, or 50 years, whichever is the greater.

(OMB Circular No. A-102, Attachment N.)

### § 100b.161 Contracting.

(a) Except as otherwise provided by State or local law, all contracting for construction (including the purchase and installation of built-in equipment) shall be on a lump-sum fixed-price basis, and, except as provided in paragraph (b) of this section, contracts shall be awarded pursuant to Subpart I of this part on the basis of competitive bidding with award of the contract to the lowest responsive and responsible bidder.

(b) If one or more items of construction are covered by an established alternative procedure for awarding contracts, consistent with State and local laws and regulations, which is approved by the Commissioner and is designed to assure construction in an economical manner consistent with sound business practice, such alternative procedure may be followed.

### § 100b.168 Reports.

The recipient shall furnish such progress reports and such other information relating to the proposed construction and the project as the State agency may require.

(20 U.S.C. 1232c(b)(3).)

### § 100b.169 Federal access to records and work.

Representatives of the Federal Government shall have access at all reasonable times to the recipient's records and to work whenever it is in preparation or progress, and the contractor shall be required under the contract to provide proper facilities for such access and inspection.

(20 U.S.C. 1232c(a)(2).)

### § 100b.170 Operation and maintenance.

The facility shall be operated and maintained in accordance with the requirements of applicable Federal, State, and local agencies for the maintenance and operation of such facilities.

(20 U.S.C. 1221c(b)(1).)

### § 100b.171 Cost-sharing and operational funds.

Sufficient funds shall be available to meet the non-Federal share of the cost of constructing the facility (where applicable), and sufficient funds shall be available when construction is completed to assure effective operation and maintenance of the facility for the purposes for which constructed.

(20 U.S.C. 1221c(b)(1).)

### § 100b.172 Supervision and inspection.

The recipient shall provide and maintain competent and adequate architectural and engineering supervision and inspection at the construction site to insure that the completed work conforms to the approved drawings and specifications.

(20 U.S.C. 1232c(b)(1).)

### § 100b.173 Cultural activities.

Reasonable provision shall be made, consistent with the other uses to be made of the facilities, for areas in such facilities which are adaptable for artistic and cultural activities.

(20 U.S.C. 1221c(b)(1).)

### § 100b.184 Safety and health.

In planning for and designing facilities, the recipient shall observe nationally recognized safety and health standards and codes, including National Fire Protection Association standards and those adopted under the Occupational Safety and Health Act of 1970 (Public Law 91-576): *Provided, however*, That to the extent that State and local codes are more stringent, they shall apply.

(29 U.S.C. 651.)

### § 100b.185 Environmental impact.

Each applicant shall provide the Department Regional Office with its assessment of the impact of the project on the quality of the environment in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969 and Executive Order No. 11514 (34 FR 4247).

(42 U.S.C. 4332(2)(c).)

### § 100b.186 Preservation of historic sites.

Each application for Federal financial assistance for construction shall describe the relationship to and the probable effect, or lack of effect, on any district, site, building, structure, or object that is included in the National Register of Historic Preservation of the National Park Service and published with periodical updatings in the FEDERAL REGISTER. Such information is to be furnished to the Department by the State agency to enable it to take into account such an effect and to consider the comments thereon of the Advisory Council on Historic Preservation, prior to providing such Federal financial assistance, as required by section 106 of Public Law 89-665.

(16 U.S.C. 470f.)

### § 100b.187 Davis-Bacon, Copeland, and Contract Work Hours Standards Act.

Except as otherwise provided by law, all laborers and mechanics employed by contractors and subcontractors on construction assisted under Federal programs, including minor remodeling, shall be paid wages at rates not less than those prevailing as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended, and shall receive overtime compensation in accordance with and subject to the provisions of the Contract Work Hours Standards Act. Such contractors and subcontractors shall comply with the provisions of 29 CFR part 3 ("anti-kickback" regulations); and all construction contracts and subcontracts shall incorporate the contract clauses required by 29 CFR 5.5 (a) and (c).

(20 U.S.C. 1232b; 40 U.S.C. 276a, 276c, 327-332.)

### § 100b.188 Nondiscrimination.

Construction contracts shall include the applicable provisions of Executive Order No. 11246, as amended by Executive Order No. 11375 (nondiscrimination in construction contract employment), and the applicant shall otherwise comply with the requirements of section 301 of said Executive order.

(E.O. Nos. 11246, 11375.)

### § 100b.189 Access by the handicapped.

The recipient shall require the facility to be designed to comply with the "American Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped," No. A117.1-1961, as modified by other standards prescribed by the Secretary or the U.S. Administrator of General Services (41 CFR 101-17.703). The applicant shall be responsible for conducting inspections to insure compliance with these specifications by the contractor.

(42 U.S.C. 4151, 4152, 4155.)

### § 100b.190 Avoidance of flood hazards.

In the planning of the construction of facilities involving the use of Federal funds, the recipient shall, in accordance with the provisions of Executive Order No. 11296 of August 10, 1966 (31 FR 10663) and such rules and regulations as may be issued by the Secretary to carry out those provisions, evaluate flood hazards in connection with such facilities and, as far as practicable, avoid the uneconomic, hazardous, or unnecessary use of flood plains in connection with such construction.

(E.O. No. 11296.)

### § 100b.191 Relocation assistance.

Projects receiving Federal financial assistance are subject to the regulations on relocation assistance and real property acquisition policies contained in part 15 of this title.

(20 U.S.C. 1221c(b)(1).)

### § 100b.192 Water pollution.

The recipient shall comply with Executive Order No. 11288 of July 7, 1966 (31 FR 9261), "Prevention, Control and Abatement of Water Pollution." (E.O. No. 11288)

## Subpart L—Property Management Requirements

### § 100b.209 Scope of subpart.

This subpart prescribes policies and procedures governing title, use, and disposition of real and tangible personal property whose acquisition cost was borne in whole or in part as a direct charge by Federal grants or subgrants and ownership and rights for intangible personal property developed under Federal grants and subgrants.

(OMB Circular No. A-102, Attachment N.)

### § 100b.210 General.

Recipients may follow their own property management policies and procedures: *Provided*, They observe the requirements of this subpart.

(OMB Circular No. A-102, Attachment N.)

### § 100b.211 Definitions.

As used in this subpart:

"Acquisition cost" of nonexpendable personal property acquired by purchase means the net invoice price of the property, including any attachments, accessories, or auxiliary apparatus necessary to make the property usable for the purpose for which it was acquired. Auxiliary charges such as taxes, duty, protective in-transit insurance, freight, or installation shall be included in or excluded from acquisition cost in accordance with the recipient's regular accounting practices.

"Real property" means land, land improvements, structures and appurtenances thereto, excluding movable machinery and equipment.

(OMB Circular No. A-102, Attachment N.)

### § 100b.212 Real property.

Title to real property whose acquisition cost was borne in whole or in part by Federal funds shall vest in the recipient upon acquisition. In the absence of applicable statutory provisions governing the use or disposition of such property, it shall be subject to the following requirements, in addition to (and subject to) any other requirements imposed by the Statute or regulation:

(a) The recipient shall use the real property for the purposes authorized by the original grant or subgrant as long as needed.

(b) The State agency may authorize the recipient to use the property for the following (but no other) purposes when the recipient determines that the property is no longer needed for the orginally authorized purposes:

(1) Activities sponsored by other Federal awards (regardless of which Federal agency makes the other awards), or

(2) Activities not sponsored by other Federal awards, but which, nevertheless, have purposes consistent with those of the legislation under which the original award was made.

(c)(1) When no longer used in accordance with paragraphs (a) and (b) of this section the recipient shall return to the control of the Commissioner all real property whose acquisition cost was borne wholly by Federal funds. If the acquisition cost of the property was borne partly by Federal funds, the recipient may be relieved of accountability to the Federal Government with respect to the Federal interest in the property by compensating the Federal Government for its fair share of the current value of the property, or if the grantee no longer needs the property, by selling it and compensating the Federal Government for its fair share of the sales proceeds.

(2) The amount of compensation to the Federal Government under subparagraph (1) of this paragraph shall be computed by applying the percentage of Federal participation in the cost of the project or program for which the property was acquired to the property's current fair market value (if the recipient retains the property) or to the proceeds from sale (if the recipient sells the property). In most cases, the real property will have been acquired under an award whose purpose was to assist the recipient in acquiring the property. In such cases, the "total cost of the project or program for which the property was acquired" will ordinarily be the same as the acquisition cost of the property.

(OMB Circular No. A-102, Attachment N.)

### § 100b.215 Nonexpendable personal property.

(a) *Title.*—When nonexpendable personal property is acquired by a recipient wholly or in part with Federal funds, title shall be vested in the recipient.

(b) *Use.*—(1) The recipient shall retain such property in the project as long as there is a need for such property to accomplish the purpose of the project, whether or not the project continues to be supported by Federal funds.

(2) When there is no longer a need for such property to accomplish the purpose of the project, the recipient shall use the property in connection with other Federal awards it has received in the following order or priority:

(i) Other awards under Federal programs administered by the Commissioner needing the property.

(ii) Awards of other Federal agencies needing the property.

(3) When the recipient no longer has need for such property in any of its federally assisted projects, the property may be used for the recipient's own official activities in accordance with the following standards:

(i) If the property had an acquisition cost of less than $500 per unit and has been used 4 years or more, the recipient may use the property without reimbursement to the Federal Government or sell the property and retain the proceeds.

(ii) For all of such property not covered under subparagraph (3)(i) of this paragraph, the recipient may retain the property for its own use provided that a fair compensation is made to the Federal Government for the Federal share of the property. The amount of such compensation shall be computed by applying the percentage of Federal participation in the cost of the project to the current fair market value of the property.

(c) *Disposition.*—If the recipient has no need for the property, disposition of the property shall be made as follows:

(1) If the property had an acquisition cost of $1,000 or less per unit (except for property covered under paragraph (b)(3)(i) of this section) the recipient shall sell the property and reimburse the Federal Government in accordance with subparagraph (2)(iii) of this paragraph.

(2) If the property had an acquisition cost of over $1,000 per unit, the recipient shall request disposition instructions from the State agency. The State agency will issue instructions to the recipient within 120 days following the receipt of such request and the following procedures shall govern:

(i) If the recipient is instructed to ship the property elsewhere, the recipient will be reimbursed by the State agency with an amount which is computed by applying the percentage of the recipient's participation in the project to the current fair market value of the property, plus any shipping or interim storage costs incurred.

(ii) If the recipient is instructed to otherwise dispose of the property, the recipent will be reimbursed by the State agency for the costs incurred in such disposition.

(iii) If disposition instructions are not issued within the 120-day period specified in subparagraph (2) of this paragraph, the recipient shall sell the property and reimburse the Federal Government with an amount which is computed by applying the percentage of Federal participation in the project to the sales proceeds. The recipient may, however, deduct and retain from that amount $100 or 10 percent of the proceeds, whichever is greater, for the recipient's selling and handling expenses.

(d) *Property management standards.*—Recipients' property management standards for nonexpendable personal property shall also include the following procedural requirements:

(1) Property records shall be maintained accurately and provide for: (i) A description of the property; (ii) manufacturer's serial number or other identification number; (iii) acquisition date and cost; (iv) source of the property; (v) percentage of Federal funds used in the purchase of the property; (vi) location, use, and condition of the property; and (vii) ultimate disposition data including sales price or the method used to determine current fair market value if the grantee reimburses the Federal Government for the Federal share.

(2) A physical inventory of property shall be taken and the results reconciled with the property records at least once every 2 years to verify the existence, current utilization, and continued need for the property.

(3) A control system shall be in effect to insure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft of nonexpendable property shall be investigated and fully documented. The recipient shall be responsible for replacing or repairing (with funds of such recipient) property which is lost, damaged, or destroyed due to the negligence of the recipient.

(4) Adequate maintenance procedures shall be implemented to keep the property in good condition.

(5) Proper sales procedures shall be established for unneeded property which would provide for competition to the extent practicable and result in the highest possible return.

(OMB Circular No. A-102, attachment N.)

### § 100b.216 Expendable personal property.

(a) The recipient may at its option either retain or sell items of expendable personal property when no longer needed for any federally sponsored activity (including activities sponsored by other agencies).

(b) Compensation to the Federal Government is required if the aggregate fair market value of all of those items acquired with Federal assistance exceeds $500 when no longer needed for any federally sponsored activity. The amount of compensation shall be computed by applying the percentage of Federal participation in the cost of the original project to the current fair market value of items retained, and to the sales proceeds of items sold.

(OMB Circular No. A-102, attachment N.)

### § 100b.217 Intangible personal property.

(a)(1) All inventions conceived or first actually reduced to practice in the course of or under a federally assisted project are subject to Parts 6 and 8 of this title. Each invention shall be promptly and fully reported to the Assistant Secretary for Health, Department of Health, Education, and Welfare.

(2) Determination as to ownership and disposition of rights to such inventions, including whether a patent application shall be filed, and, if so, the manner of obtaining, administering, and disposing of rights under any patent application or patent which may issue shall be made either:

(i) By the Federal Government, or

(ii) Where the recipient has a separate formal institutional patent agreement with the Department, by the recipient in accordance with that agreement.

(b) Where the project results in a book or other copyrightable material, the author or recipient is free to copyright the work, but the Commissioner reserves a royalty-free, nonexclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use the work for Government purposes.

(OMB Circular No. A-102, attachment N.)

### § 100b.218 Publications.

Any publication or presentation resulting from or primarily related to Federal financial assistance shall contain the following acknowledgement:

> The activity which is the subject of this report was supported in whole or in part by the U.S. Office of Education, Department of Health, Education, and Welfare. However, the opinions expressed herein do not necessarily reflect the position or policy of the U.S. Office of Education, and no official endorsement by the U.S. Office of Education should be inferred.

(20 U.S.C. 1221c(b)(1).)

### § 100b.220 Determining percentage of participation.

(a) Various provisions in this subpart require a determination of the percentage of Federal (or recipient) participation in the cost of the project or program in order to compute the amount of compensation for the value, or proceeds from sale, of property. In determining the applicable percentage, there shall first be deducted from the allowable costs incurred during the grant period, any royalties or other income (not including interest income or proceeds from sale of property) earned by the federally supported project or program during the grant period.

(b) The deduction of income required by paragraph (a) of this section is independent of, and is not intended to control, the disposition of such income pursuant to Subpart M of this part.

(OMB Circular No. A-102, Attachment N.)

## Subpart M—Program Income

### § 100b.230 Scope of subpart.

This subpart sets forth standards for recipients in accounting for program income and other income related to projects and programs financed in whole or in part with Federal funds.

(OMB Circular A-102, Attachment E.)

### § 100b.231 Meaning of program income.

As used in this subpart, the term "program income" shall have the meaning set forth for that term in § 100b.401.

(OMB Circular No. A-102, Attachment E.)

### § 100b.232 Interest income.

(a) As used in paragraph (b) of this section:

(1) The term "State" shall have the meaning set forth in section 102 of the Intergovernmental Cooperation Act of 1968.

(2) The term "grant-in-aid" shall have the meaning set forth for that term in Section 106 of the Intergovernmental Cooperation Act of 1968.

(b) In accordance with section 203 of the Intergovernmental Cooperation Act of 1968, States shall not be held accountable for interest earned on grant-in-aid funds, pending their disbursement for program purposes.

(c) In all other cases, recipient shall remit to the Federal Government any interest earned on advances of Federal funds.

(Pub. L. 90-577, secs. 102, 106, 203; OMB Circular No. A-102, Attachment E.)

### § 100b.233 Sale of real and personal property.

Proceeds from the sale of real and tangible personal property whose acquisition cost was borne in whole or in part by Federal funds shall be handled in accordance with Subpart L of this part.

(OMB Circular No. A-102, Attachment N.)

### § 100b.234 Royalties.

(a) *Applicability*—(1) *Copyrights*. This section applies to royalties received by recipients from copyrights on publications or other works developed under a federally-assisted project.

(2) *Patents*. This section also applies to royalties received by recipients from patents on inventions conceived or first actually reduced to practice in the course of or under federally-assisted projects.

(b) *During the grant period*—(1) Royalties received during the grant period shall be retained by the recipient. The terms and conditions of the subgrant shall provide either:

(i) That such royalties shall be used by the recipient for any purposes which further the objectives of the legislation under which the subgrant was made, or

(ii) That such royalties shall be deducted from total project costs for the purpose of determining the net costs on which the Federal share of costs shall be based.

(2) The recipient shall elect either of the alternatives specified in subparagraph (1) of this paragraph if the terms and conditions of the subgrant do not specify which is to be followed.

(c) *After the grant period*—(1) *Copyrights*. The Federal share of copyright royalties in excess of $200 received annually shall be paid by the recipient to the Federal Government. The Federal share of the royalties shall be computed on the same ratio basis as the percentage of Federal participation in the cost of the project or program. This percentage of participation shall be determined in accordance with § 100b.220.

(2) *Patents*. Disposition of patent royalties received after the termination or completion of the period for obligation shall be governed by the regulations contained in Parts 6 and 8 of this title.

(OMB Circular No. A-102, Attachment E.)

### § 100b.235 Other program income.

(a) This section applies to all program income earned during the period for obligation except royalties and proceeds from the sale of real property or tangible personal property.

(b) All such income earned during the period for obligation shall be retained by the recipient. The recipient may elect either of the following alternatives to satisfy its accountability to the Federal Government for the income:

(1) The income may be used by the recipient for purposes which further the objections of the legislation under which the award was made, or

(2) The income may be deducted from total project costs for the purpose of determining the net costs on which the Federal share of costs shall be based.

(OMB Circular No. A-102, Attachment E.)

### § 100b.236 Earmarked revenues.

State agencies shall record the receipt and expenditure of revenues such as taxes, special assessments, levies, fines, etc., as a part of grant project transactions when such revenues are specifically earmarked for a project in accordance with a State plan (or State application).

(OMB Circular No. A-102, Attachment E.)

## Subpart N—Miscellaneous Requirements

### § 100b.250 Financial interest prohibited.

A person who is a public official, officer, or member of, or who is otherwise associated with a recipient may not participate in an administrative decision with respect to a project if such decision can be expected to result in any benefit or remuneration, including, without limitation, a royalty, commission, contingent fee, brokerage fee, or other benefit, to him or to any member of his immediate family.

(20 U.S.C. 1232c(b)(1).)

### § 100b.254 Transfer of funds to subgrantees.

(a) State agencies shall establish policies and procedures to be used in the payment of funds to subgrantees (where applicable) pursuant to an approved project either: (1) As a reimbursement for actual expenditures or (2) as an advance prior to expenditures.

(b) Advances shall not be eligible for inclusion as expenditures for the purposes of earning Federal financial participation until adequate evidence of actual expenditures for approved projects has been received and verified by the State agency.

(c) Reimbursement or payment need not be uniform to all recipients, and the State agency may provide a method by which the ratio of reimbursement to expenditures in particular cases may be adjusted on the basis of comparative needs of individual recipients.

(20 U.S.C. 1232c(b)(1).)

### § 100b.257 Custody of funds.

The State agency shall provide for the receipt by the State treasurer (or, if there is no State treasurer, the officer identified by title exercising similar functions for the State) and for the proper safeguarding of all Federal funds granted to the State. The State agency shall pro-
member of his immediate family.
fee, or other benefit, to him or to any vide that all Federal funds so received shall be expended solely for the purposes for which granted.

(20 U.S.C. 1232c(b)(2).)

### § 100b.258 Leasing facilities.

In the case of the lease of a facility, the State agency or other recipient shall have the right to occupy, and to operate, and if necessary to maintain and improve, the premises to be leased during the proposed period of the project.

(20 U.S.C. 1221c(b)(1).)

### § 100b.262 Civil rights.

(a) Federal financial assistance is subject to the regulations in part 80 of this title, issued by the Secretary of Health, Education, and Welfare and approved by the President, to effectuate the provisions of title VI of the Civil Rights Act of 1964 (Pub. L. 88-352).

(42 U.S.C. 2000d.)

(b) Federal financial assistance is also subject to the provisions of title IX of the Education Amendments of 1972 (prohibition of sex discrimination), and any regulations issued thereunder.

(Pub. L. 92-318, title IX.)

### § 100b.274 Application of State rules.

Subject to the provisions and limitations of applicable Federal statutes and regulations, Federal financial participation shall be available only for expenditures made in accordance with applicable State and local laws, rules, regulations, and standards governing expenditures.

(20 U.S.C. 1221(b)(1).)

### § 100b.275 Coordination.

Each project (and each State plan) shall be developed so as to be in coordination with other public and private programs for similar educational purposes. Such coordination shall be continuous during the period in which such project or plan remains in effect.

(20 U.S.C. 1232c(b)(1).)

## Subpart O—Financial Management Systems

### § 100b.300 Scope of subpart.

This subpart prescribes standards for financial management systems of Federally supported activities conducted by State agencies and their subgrantees.

(OMB Circular No. A-102, Attachment G.)

### § 100b.301 Standards.

State agency financial management systems for grants and subgrantee financial management systems for subgrants shall provide for:

(a) Accurate, current, and complete disclosure of the financial results of each grant in accordance with Subpart P of this part, and for each subgrant in accordance with the State agency's requirements. Except when specifically required by law, the Commissioner will not require financial reporting on the accrual basis from organizations whose records are not maintained on that basis. However, when accrual reporting is required by law, organizations whose records are not maintained on that basis will not be required to convert their accounting systems to the accrual basis; they may develop the accrual information through an analysis of the documentation on hand or on the basis of best estimates.

(b) Records which identify adequately the source and application of funds for grant- or subgrant-supported activities. These records shall contain information pertaining to grant or subgrant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income.

(c) Effective control over and accountability for all grant or subgrant funds, and real and personal property acquired with grant or subgrant funds. Grantees and subgrantees shall adequately safeguard all such property and shall assure that it is used solely for authorized purposes.

(d) Comparison of actual with budgeted amounts for each grant or subgrant, and when specifically required by the performance or productivity data, including the production of unit cost information.

(e) Procedures to minimize the time elapsing between the transfer of funds from the U.S. Treasury and the disbursement by the State agency, whenever cash is advanced by the Federal Government. When advances are made by a letter-of-credit method, the State agency shall make drawdowns from the U.S. Treasury through its commercial bank as close as possible to the time of making the disbursements. Subgrantees shall institute analogous procedures when funds are advanced by the State agency.

(f) Procedures for determining the allowability and allocability of costs in accordance with the applicable cost principles prescribed by Subpart G of this part.

(g) Accounting records which are supported by source documentation.

(h) Audits to be made by the State agency or subgrantee or at its direction to determine, at a minimum, the fiscal integrity of grant or subgrant financial transactions and reports, and the compliance with applicable statutes, regulations, and terms and conditions of the grant or subgrant. The grantee or subgrantee will schedule such audits with reasonable frequency, usually annually, but not less frequently than once every two years, considering the nature, size, and complexity of the activity.

(i) A systematic method to assure timely and appropriate resolution of audit findings and recommendations.

(OMB Circular No. A-102, Attachment G.)

### § 100b.302 Subgrantees.

The standards of § 100b.301, insofar as they apply to subgrantees, shall be included in the terms and conditions of subgrants by State agencies.

(OMB Circular No. A-102, Attachment G.)

## Subpart P—Financial Reporting Requirements

### § 100b.400 Scope of subpart.

This subpart prescribes requirements for State agencies to report financial information to the Commissioner and to request advances and reimbursement when a letter-of-credit method is not used, and promulgates standard forms incident thereto.

(OMB Circular No. A-102, Attachment H.)

### § 100b.401 Definitions.

As used in this subpart and in the forms identified by this subpart:

"Accrued expenditures" are the charges incurred by the State agency during a given period requiring the provision of funds for: (a) goods and other tangible property received; (b) services performed by employees, contractors, subgrantees, and other payees; and (c) amounts becoming owed under programs for which no current services or performance are required.

"Accrued income" is the earnings during a given period which is a source of funds resulting from (a) services performed by the State agency, (b) goods and other tangible property delivered to purchasers, and (c) amounts becoming owned to the State agency for which no current services or performance are required by the State agency.

"Disbursements" are payments in cash or by check.

"Federal funds authorized" represents the total amount of the Federal funds authorized for obligations and establishes the ceiling for obligation of Federal funds. This amount may include any authorized carryover of unobligated funds from prior fiscal years.

"In-kind contributions" represent the value of noncash contributions provided by the State agency or third parties. In-kind contributions may consist of charges for real property and nonexpendable personal property, and value of goods and services directly benefiting and specifically identifiable to the federally-supported activity. Unless otherwise authorized by Federal legislation, charges for property purchased wholly with Federal funds, and charges based on the Federal share of the value of property purchased partly with Federal funds, may not be considered as the State agency's in-kind contributions.

"Obligations" are the amounts of orders placed, contracts and grants awarded, services received, and similar transactions during a given period, which will require payment during the same or a future period.

"Outlays" represent charges made to the grant project or program. Outlays may be reported on a cash or accrued expenditure basis.

"Program income" represents earnings by the recipient realized from the federally-supported activities as a result of the grant. Such earnings exclude interest income and may include, but will not be limited to, income from service fees, sale of commodities, usage or rental fees, sale of assets purchased with grant funds, and royalties on patents and copyrights. Program income may be reported on a cash or accrued income basis.

"Unobligated balance" is the portion of the funds authorized by the Commissioner which has not been obligated by the State agency and is determined by deducting the cumulative obligations from the funds authorized.

"Unpaid obligations" represent the amount of obligations incurred by the State agency which have not been paid.

(OMB Circular No. A-102, Attachment H.)

### § 100b.402 Authorized forms and instructions.

(a) Only those forms specified in §§ 100b.403 through 100b.406, inclusive, and such supplementary or other forms as may from time to time be authorized by the Commissioner may be used:

(1) For obtaining financial information from State agencies for federally-assisted programs, or

(2) For requesting advances or reimbursements when letters of credit are not used.

(b) All applicable standard instructions promulgated for use in connection with the forms specified in §§ 100b.403 through 100b.406, inclusive, shall be followed.

(c) State agencies shall submit the original and two copies of forms required pursuant to this subpart. However, the Commissioner may waive the requirement for the second copy, or both copies, when not needed.

(d) The forms (with their instructions) specified in §§ 100b.403 through 100b.406, inclusive, will be available to the public upon request to the Commissioner.

(OMB Circular No. A-102, Attachment H.)

### § 100b.403 Financial status report.

(a) *Form*. State agencies shall use the standard Financial Status Report prescribed by Attachment H of OMB Circular No. A-102 to report the status of funds for all non-construction grant programs. The Commissioner may choose not to require the Financial Status Report when the Request for Advance or Reimbursement (see § 100b.405) is determined to provide adequate information to meet his needs, except that a final Financial Status Report is required at the completion of the grant when the Request for Advance or Reimbursement form is used only for advances.

(b) *Accounting basis*. Each State agency shall report outlays and program income on the same accounting basis, i.e., cash or accrued expenditure (accrual), which it used in maintaining its accounting records. The basis used by a State agency must be consistent for all grants.

(c) *Frequency*. For research project grants, reports shall be submitted annually, and a final report shall be submitted upon completion or termination of Federal support. For all other types of grants, the Commissioner will prescribe the frequency of the report, considering the size and complexity of the particular program. However, the report will not be required more frequently than quarterly or less frequently than annually, and a final report is required upon completion or termination of Federal support.

(d) *Due date*. When reports are required on a quarterly or semi-annual basis, they shall be due thirty days after the end of the specified reporting period. When required on an annual basis, they shall be due ninety days after the end of the grant year. Final reports shall be due ninety days after the completion or termination of Federal support. Justified requests from individual State agencies for extension of reporting due dates will be approved whenever feasible.

(OMB Circular No. A-102, Attachment H.)

### § 100b.404 Report of Federal cash transactions.

(a) *Form*. When funds are advanced to State agencies through letters of credit or with Treasury checks, each State agency shall submit the Report of Federal Cash Transactions prescribed by Attachment H of OMB Circular No. A-102 (HEW Forms 602T, 603T). This report will be used to monitor cash advanced to State agencies and to obtain disbursement or outlay information for each project from the State agencies. The format of the report may be adapted as appropriate when reporting is to be accomplished with the assistance of automatic data processing equipment, provided that the information to be submitted is not changed.

(b) *Forecasts of Federal cash requirements*. Forecasts of Federal cash requirements may be required in the "Remarks" section of the report.

(c) *Cash in hands of secondary recipients*. When deemed necessary and feasible by the Commissioner, State agencies may be required to report in the "Remarks" section of the report the amount of cash advances in excess of three days' requirements in the hands of subgrantees or other secondary recipients, and to provide short narrative explanations of actions taken by the State agencies to reduce the excess balances.

(d) *Frequency and due date*. State agencies shall submit the Report of Federal Cash Transactions no later than fifteen working days following the end of each quarter. However, where a letter of credit authorizes advances at an annualized rate of one million dollars or more, the Commissioner may require the reports to be submitted within fifteen working days following the end of each month.

(e) *Waiver*. The Commissioner may waive the requirement for submission of the Report of Federal Cash Transactions when a State agency's monthly advances do not exceed $10,000: *Provided*, That such advances are monitored through other forms authorized pursuant to this subpart, or the State agency's accounting controls are adequate to minimize excessive Federal advances.

(OMB Circular No. A-102, Attachment H.)

### § 100b.405 Request for advance or reimbursement.

(a) State agencies shall submit their requests for advance payments or reimbursements under nonconstruction grants, and their requests for advance payments under construction grants, on the Request for Advance or Reimbursement form prescribed by Attachment H of OMB Circular No. A-102 (HEW Form 604T) when letters of credit or predetermined automatic Treasury check advance methods are not used. Additionally, the Commissioner may prescribe this form for construction grants in lieu of the Outlay Report and Request for Reimbursement for Construction Programs as specified in § 100b.406.

(b) State agencies will be authorized to submit no less often than monthly their requests for advances or reimbursement when letters of credit or predetermined automatic Treasury check advance methods are not used.

(OMB Circular No. A-102, Attachment H.)

### § 100b.406 Outlay report and request for reimbursement for construction programs.

(a) *Construction grants paid by reimbursement method*. (1) Requests for reimbursement under construction grants shall be submitted on the Outlay Report and Request for Reimbursement for Construction Programs form prescribed by Attachment H of OMB Circular No. A-102. The Commissioner may, however, substitute the Request for Advance or Reimbursement form specified in § 100b.405 in lieu of this form when he determines that the former provides adequate information to meet his needs.

(2) State agencies will be authorized to submit no less often than monthly their requests for reimbursement under construction grants.

(b) *Construction grants paid by letter of credit or Treasury check advances.* (1) When a construction grant is paid by letter of credit or Treasury check advances, the State agency shall report its outlays to the Commissioner using the Outlay Report and Request for Reimbursement for Construction Programs form prescribed by Attachment H of OMB Circular No. A-102. In these cases, the State agency should leave blank those items on the form which are applicable only when requesting reimbursement, i.e., items 3, 5, 10, 11t, 11u, and 11v.

(2) In lieu of the certification and signatures in items 12, 12a, and 12b, the following certification, signed on behalf of the State agency by an authorized official of the State agency, shall be submitted to the Commissioner with the outlay report:

> I certify that to the best of my knowledge and belief the accompanying report is correct and complete and that all outlays reported therein are for the purposes set forth in the Federal authorizing legislation.

Information as to percentage of project completion and certification thereof by the Government representative shall be submitted independently of the outlay report, at such times and by such means as may be prescribed by the Commissioner.

(3) Frequency and due date of the Outlay Report and Request for Reimbursement for Construction Programs shall be governed by § 100b.403 (c) and (d).

(c) *Accounting basis.* The accounting basis for the Outlay Report and Request for Reimbursement for Construction Programs shall be governed by § 100b.403 (b).

(d) *Alternative forms.* For construction grants paid by the reimbursement method, or by Treasury check advances based on periodic requests from the State agency, the Commissioner may substitute the Request for Advance or Reimbursement specified in § 100b.405 in lieu of the Outlay Report and Request for Reimbursement for Construction Programs. When any other payment method is used, the Commissioner may substitute the Financial Status Report specified in § 100b.403.

(OMB Circular No. A-102, Attachment H.)

### § 100b.407 Requests for supplementary Treasury checks.

When the drawing authority for a specified period under a letter of credit is insufficient, the State agency may request a supplementary Treasury check payment by letter.

(OMB Circular No. A-102, Attachment H.)

## Subpart Q—Monitoring and Reporting of Program Performance

### § 100b.430 Scope of subpart.

This subpart sets forth the procedures for monitoring and reporting program performance. These procedures are designed to place greater reliance on State agencies to manage the day-to-day operations of their federally-supported activities.

(OMB Circular No. A-102, Attachment I.)

### § 100b.431 Monitoring by State agencies.

State agencies shall constantly monitor performance under federally-supported activities to assure that adequate progress is being made towards achieving the goals of the grant. This review shall be made for each function or activity of each grant as set forth in the approved State plan or application.

(OMB Circular No. A-102, Attachment I.)

### § 100b.432 Performance reports for nonconstruction grants.

(a) Where the Commissioner determines that performance information sufficient to meet his programmatic needs will be available from continuation or renewal applications, the Commissioner will require the State agency to submit a performance report only with the final Financial Status Report (or other financial report equivalent thereto). Note that the "Application for Federal Assistance (Nonconstruction Programs)" prescribed by Subpart C of this part, when used to request a continuation or renewal, provides information substantially equivalent to a performance report.

(b) Except as provided in paragraph (a) of this section, State agencies shall submit a performance report with each Financial Status Report (or other financial report equivalent thereto) in the frequency established by Subpart P of this part. The Commissioner will prescribe the frequency with which performance reports will be submitted with the Request for Advance or Reimbursement when that form is used in lieu of the Financial Status Report; in such cases, performance reports will not be required more frequently than quarterly, or less frequently than annually.

(c) Performance reports shall include, to the extent appropriate to the particular grant, a brief presentation of the following for each function or activity involved:

(1) A comparison of actual accomplishments to the goals established for the period. Where the output of projects can be readily quantified, such quantitative data shall be related to cost data for computation of unit costs.

(2) Reasons for slippage in those cases where established goals were not met.

(3) Other pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.

(OMB Circular No. A-102, Attachment I.)

### § 100b.433 Performance reports for construction grants.

In general, the Commissioner will rely heavily on on-site technical inspection and certified percentage-of-completion data to keep himself informed as to progress under construction grants. Therefore, formal performance reports from State agencies to supplement those sources of information will be required only if deemed necessary by the Commissioner and in no case more frequently than quarterly.

(OMB Circular No. A-102, Attachment I.)

### § 100b.434 Significant developments between scheduled reporting dates.

Between the scheduled performance reporting dates, events may occur which have significant impact upon the federally-supported activity. In such cases, the State agency shall inform the Commissioner as soon as the following types of conditions become known:

(a) Problems, delays, or adverse conditions which will materially impair the ability to attain the objectives of the grant. This disclosure shall be accompanied by a statement of the action taken, or contemplated, and any Federal assistance needed to resolve the situation.

(b) Favorable developments or events which enable meeting time schedules and goals sooner or at less cost than anticipated or producing more beneficial results than originally projected.

(OMB Circular No. A-102, Attachment I.)

### § 100b.436 Site visits.

Site visits will be made by representatives of the Department or the Commissioner as frequently as practicable to:

(a) Review program accomplishments and management control systems, and

(b) Provide such technical assistance as may be required.

(OMB Circular No. A-102, Attachment I.)

## Subpart R—Accountability for Federal Funds

### § 100b.477 Retention of records.

(a) *Records.*—Each State agency and other recipient shall keep intact and accessible all records relating to the receipt and expenditure of Federal funds (and to the expenditure of the recipient's contribution to the cost of the project, if any) in accordance with section 434(a) of the General Education Provisions Act, including all accounting records and related original and supporting documents that substantiate direct and indirect costs charged to the award.

(b) *Period of retention.* (1) Except as provided in paragraphs (b)(2) and (d) of this section, the records specified in paragraph (a) of this section shall be retained for 3 years after the date of submission of the annual expenditure report to the State agency.

(2) Records for nonexpendable personal property which was acquired with Federal funds shall be retained for 3 years after its final disposition.

(c) *Microfilm copies.*—Recipients may substitute microfilm copies in lieu of original records in meeting the requirements of this section.

(d) *Audit questions.*—The records involved in any claim or expenditure which has been questioned by Federal audit shall be further retained until resolution of any such audit questions: *Provided, however,* That records need not be retained if they relate to a grant or contract with respect to which actions by the United States to recover for diversion of Federal funds are barred by the statute of limitations in 28 U.S.C. 2415(b).

(e) *Audit and examination.*—(1) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to the records specified in paragraph (a) of this section and to any other pertinent books, documents, papers, and records of the recipient.

(2) In the case of a subgrant (or negotiated contract exceeding $2,500) the State agency, the Secretary, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the subgrantee (or the contractor) which the State agency, the Secretary, the Comptroller General of the United States, or any of their duly authorized representatives determine are pertinent to the specific grant, for the purpose of making audit, examination, excerpts, and transcripts.

(f) *Records for indirect cost rate proposals, etc.*—(1) *Applicability.* This paragraph applies to records supporting (i) indirect cost rate proposals, (ii) cost allocation plans of State and local governments pursuant to Appendix B to the subchapter, (iii) hospital patient care rate proposals, and (iv) any similar accounting computations of the rate at which a particular group of costs is chargeable to a grant. Examples of the latter are computer usage chargeback rate computations and composite fringe benefit rate computations.

(2) *If submitted to the Federal Government.* If the proposal, plan, or other computation is required to be submitted to the Federal Government to form the basis for negotiation of the rate, then the three-year retention period for its supporting records starts from the date of such submission.

(3) *If not submitted to the Federal Government.* If the proposal, plan, or other computation is not required to be submitted to the Federal Government for negotiation purposes, then the three-year retention period for its supporting records starts from the end of the State agency's fiscal year (or other accounting period) covered by the proposal, plan, or other computation.

(20 U.S.C. 1232c(a); 28 U.S.C. 2415(b); OMB Circular No. A-102, Attachment C.)

### § 100b.481 Unexpended funds.

Whenever any portion of any allotment to any State has not been used in the State for the purpose provided for in the Federal statute, regulations, State plan, State application, or project application, with respect to that allotment, and has not been transferred to another allotment or reallotted to other States pursuant to law in the period during which such allotment is available, a sum equal to such portion may be deducted from the next payment of funds allotted to such State.

(20 U.S.C. 1232d.)

### § 100b.482 Withholding of funds.

The approval of a State plan or State application, the approval of a grant, or the entering into of a contract or other arrangement, and any payment pursuant thereto, shall not be deemed to waive the right of the Commissioner to withhold funds by reason of the failure of the recipient to observe, either before or after such administrative action, any Federal requirements.

(20 U.S.C. 1221c(b)(1).)

### § 100b.483 Waiver of law prohibited.

No official, agent, or employee of the Office of Education of the Department of Health, Education, and Welfare shall have the authority to waive or alter any provision of the regulations in this chapter (except through amendment by publication in the FEDERAL REGISTER) or other relevant statute or regulation, and no action or failure to act on the part of such official, agent, or employee shall operate in derogation of the Commissioner's right to enforcement of said provisions in accordance with their terms.

(43 Dec. Comp. Gen. 31 (1963).)

### § 100b.484 Federal audits.

The records of a recipient are subject to audit by the Federal Government to determine whether the recipient has properly accounted for Federal funds.

(20 U.S.C. 1232c(a)(2).)

### § 100b.494 Closeout.

(a) "Closeout" means the process by which the Commissioner determines that all applicable administrative actions and all required work of the grant have been completed by the State agency and the Commissioner.

(b) In closing out grants, the following shall be observed:

(1) Upon request, the Commissioner will make, or arrange for, prompt payment to the State agency for allowable reimbursable costs not covered by previous payments.

(2) The State agency shall immediately refund to the Federal Government, or otherwise dispose of in accordance with instructions from the Commissioner, any unencumbered balance of cash advanced to the State agency.

(3) The State agency shall submit, within 90 days after the date of completion of the grant, all financial, performance, and other reports required as a condition of the grant. The Commissioner may grant extensions when requested by the State agency.

(4) The Commissioner will make a settlement for any upward or downward adjustment of the Federal share of costs, to the extent called for by applicable statutes, regulations, or the terms and conditions of the grant.

(5) In the event a final audit has not been performed prior to the closeout of the grant, the Commissioner retains the right to recover an appropriate amount after fully considering the recommendations on disallowed costs resulting from the final audit.

(b) The provisions of Subpart L of this part shall be observed by the State agency in accounting for any property acquired with Federal funds or received from the Federal Governm[illegible]n connection with the grant.

(OMB Circular No. A-102, Attachment L.)

### § 100b.495 Termination of program.

If a State desires at any time not to participate in a Federal program, or upon termination of the program, the State shall refund to the Federal Government any unexpended or unobligated funds which have been paid to the State agency under such Federal program.

(20 U.S.C. 1232d.)

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## PART 100c—INDIRECT COSTS UNDER CERTAIN PROGRAMS

Sec.
100c.1 Scope.
100c.2 Indirect costs.
100c.3 Exceptions.

AUTHORITY: Sec. 403(b)(1), Public Law 90-247, 86 Stat. 327 (20 U.S.C. 1221c(b)(1)), unless otherwise noted.

### § 100c.1 Scope.

Except as provided in § 100c.3, the provisions contained in this part are applicable to the Federal programs of assistance under the following authorities:

(a) Title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 241a);

(b) Title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 821);

(c) Title III of the Elementary and Secondary Education Act of 1965 (including sec. 306 thereof) (20 U.S.C. 841);

(d) Title VII of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 880d);

(e) Part B of the Education of the Handicapped Act (20 U.S.C. 1411);

(f) Part B, sections 131(b), 142(d), and 152; and parts F, G, and H of the Vocational Education Act of 1963 (20 U.S.C. 1262); and

(g) The Follow Through program under section 222(a)(2) of the Economic Opportunity Act of 1964 (42 U.S.C. 2809 (a)(2)).

(Authority cited in 45 CFR 100c.1.)

### § 100c.2 Indirect costs.

(a) *State educational agencies.*—A State educational agency may incur indirect costs under any Federal program listed in § 100c.1, on the basis of an indirect cost rate approved by the Department pursuant to applicable principles and procedures contained in appendix B to this subchapter.

(b) *Local educational agencies*—(1) *Approval of rates by State educational agency.*—Each State educational agency, on the basis of a plan approved by the Department, shall approve indirect cost rates for those local educational agencies which request the establishment of such rates.

(2) *Formula for determining rates.*—Each such rate approved for a local educational agency is to be determined annually, and shall be the percentage that the amount of the local educational agency's total expenditure for administrative and fixed charges, as defined in paragraphs (b)(3) and (b)(4) of this section, is to the total of all other expenditures (excluding capital outlay, debt service, fines, penalties, contingencies, and election expenses) incurred by that agency for the operation of schools in the most recent year for which such data are available.

(3) *Administrative charges.*—For the purposes of this section, the term "administrative" refers to those activities which have as their purpose the direction and control of the local educational agency's affairs which are districtwide and not confined to one school, subject, or phase of school operations (unless such activity is a service function (such as accounting, payroll, and personnel) normally provided at the district level but is physically located elsewhere for convenience or better management, in which case it shall be so included). Expenditures for the board of education or other governing body of the school district, for the compensation of the chief administrative officer of the school district and of each of the schools of the district, and for the operation of their immediate offices, are not to be included as administrative charges for the purposes of this paragraph and are not to be charged to the Federal program involved on an indirect or direct cost basis.

(4) *Fixed charges.*—For the purposes of this paragraph, the term "fixed charges" shall be limited to school district contributions to retirement (including State, county, or local retirement funds, social security, and pension payments) and to property, employee, and liability insurance. Only the fixed charges applicable to the administrative charges specified in paragraph (b)(3) of this section may be included. Other items of expenditure commonly referred to as fixed charges are not to be included for the purpose of determining indirect cost rates.

(5) *Duplication of costs prohibited.*—Local educational agencies for whom such rates have been approved shall not be allowed to charge administrative and fixed charges (as defined in paras. (b)(3) and (b)(4) of this section) to the Federal program funds on a direct cost basis.

(6) *Maximum indirect costs.*—The amount of Federal program funds to be paid for indirect costs shall not exceed the product of the direct costs incurred in connection with such Federal program multiplied by the indirect cost rate. The same indirect cost rate shall be applicable for the determination of all indirect costs to be paid from funds appropriated under such Federal program for a particular fiscal year.

(OMB circular No. A-87; 20 U.S.C. 1231c(b); 20 U.S.C. 1221c(b)(1).)

## § 100c.3 Exceptions.

(a) *Past expenditures.*—Notwithstanding any other provision contained in this part, no cost shall be allowable under the Federal programs listed in §§ 100c.1(e) and 100c.1(h) either on a direct cost or on an indirect cost basis, if such cost has been met in the recent past (as determined by the Commissioner) by the expenditure of State, local, or private funds.

(20 U.S.C. 1413(a)(4); 42 U.S.C. 2812(d)(1).)

(b) *State-operated projects.*—Notwithstanding § 100c.2(a), indirect cost rates for programs and projects operated directly by a State agency under the Federal programs listed in § 100c.1 shall be determined in the same manner and to the same extent as for a local educational agency under § 100c.2(b).

(Authority cited in 45 CFR 100c.1.)

## APPENDIX A—GENERAL GRANT TERMS AND CONDITIONS, U.S. OFFICE OF EDUCATION

1. Definitions.
2. Scope and duration of the project.
3. Limitations on costs.
4. Allowable costs.
5. Accounts and records.
6. Payment procedures.
7. Reports.
8. Printing and duplicating.
9. Applicability of State and local laws and institutional procedures.
10. Copyrights.
11. Publications.
12. Patents.
13. Travel.
14. Personal property.
15. Contracting under grants.
16. Health and safety standards.
17. Compensation.
18. Labor standards.
19. Equal employment opportunity.
20. Use of consultants.
21. Data collection instruments.
22. Program income.
23. Change of key personnel.
24. Animal care.
25. Use of small businesses and minority-owned businesses.

1. *Definitions.* As used in the grant documents relating to this award, the following terms shall have the meaning set forth below:

a. "Commissioner" means the U.S. Commissioner of Education.

b. "Department" means the U.S. Department of Health, Education, and Welfare.

c. "Grantee" means the agency, institution or organization named in the grant as the recipient.

d. "Grants Officer" means the employee of the U.S. Office of Education who is authorized to execute and is responsible for the administration of the grant on behalf of the Government.

e. "Project Officer" means the employee of the U.S. Office of Education who is responsible for the technical monitoring of the project of the grantee as representative of the grants officer.

f. "Project Director" is the person responsible for directing the project of the grantee.

g. "Project" is the activity of program defined in the proposal approved by the Commissioner for support.

h. "Grant Period" means the period specified in the notification of grant award during which costs may be charged against the grant.

i. "Budget" means the estimated cost of performance of the project as set forth in the notification of grant award.

(20 U.S.C. 1221c(b)(1).)

2. *Scope and duration of the project.*— a. The project to be carried out hereunder shall be consistent with the proposal as approved for funding support by the Commissioner and referred to in the notification of grant award and shall be performed in accordance with applicable statutes, regulations (including 45 CFR part 100a—General provisions for direct project grant and contract programs), and the approved project proposal. No substantive changes in the project shall be made unless the grantee, at least 30 days prior to the effective date of the programs, whether or not specifically referenced in this document), and the approved project proposal. No substantive changes in the project shall be made unless the grantee, at least 30 days prior to the effective date of the proposed change, submits an appropriate request therefor to the grants officer, pursuant to 45 CFR 100a.28 (Amendments), along with the juistification for the change, and this request is approved in writing by the grants officer. This condition is subject to 45 CFR 100a.29 (Budget revisions and minor deviations).

b. The grant period may be extended, if otherwise permitted by law, upon timely application of the grantee to the grants officer, and if approved by him in writing prior to the end of the grant period.

(20 U.S.C. 1221c(b)(1).)

3. *Limitations on costs.*—a. The total costs to the Government for the performance of the grant shall not exceed the amount set forth in the notification of grant award or any appropriate modification thereof. The Government shall not be obligated to reimburse the grantee for costs incurred in excess of such amounts unless the grants officer has notified the grantee in writing that the amount set forth in the notification of grant award has been increased and has specified such increased amount in a revised notification of grant award. Such revised amount shall thereupon constitute the revised maximum total cost to the Federal Government of the performance of the grant (45 CFR 100a.51 (Limitations on costs)).

b. Funds for the development and production of audio-visual materials, such as motion picture films, videotapes, filmstrips, slides sets, tape recordings, exhibits, or combinations thereof, for viewing, whether for limited or general public use, are not authorized until prior written approval is received from the grants officer.

c. In the case of educational training programs, the limitation on costs stated in conditions (3)(a) shall automatically be increased, subject to the availability of appropriations, to cover the cost of allowance for additional dependents not specified in the notification of grant award (where such allowances are otherwise authorized by statute and are allowable under the grant).

d. With respect to construction contracts, the grantee is authorized to include in initial cost estimates a project contingency fund to provide for the cost of unanticipated charges. The fund will be limited to 5 percent of construction and fixed equipment costs before bids are received, and will be reduced to 2 percent after the contracts have been awarded.

(20 U.S.C. 1221c(b)(1); 31 U.S.C. 200; authority cited in 45 CFR 100a.10.)

4. *Allowable costs.*—a. Expenditures of the grantee may be charged to this grant only if they: (1) Are in payment of an obligation in-

curred during the grant period and (2) conform to the approved project proposal.

b. Subject to condition 4(a) and applicable Federal statutes and regulations, allowability of costs incurred under this grant shall be determined in accordance with Subpart G of 45 CFR Part 100a (Cost Principles).

c. Indirect costs for educational training programs (except for State and local governments) will be allowed at either (1) the actual level of the organizational indirect costs or (2) 8 percent of total direct costs, including stipends and dependency allowances, whichever is the lesser.

(OMB Circular Nos. A-21, A-87; 20 U.S.C. 1231c(b), 1232c(b)(2).)

5. *Accounts and records.*—a. The grantee shall maintain accounts, records, and other evidence pertaining to all costs incurred, and revenues or other applicable credits acquired under this grant, including such records as are required under section 434 of the General Education Provisions Act (Public Law 90-247, title IV, as amended) pursuant to 45 CFR 100a.477 (Retention of records). The system of accounting employed by the grantee shall be in accordance with generally accepted accounting principles used by State or local agencies, or institutions of higher education, or nonprofit institutions, as appropriate, and will be applied in a consistent manner so that the project expenditures can be clearly identified.

(20 U.S.C. 1232c (a)(1), (b)(2).)

b. *Cost-sharing records.*—The grantee's records shall demonstrate that any contribution made to the project by the grantee is not less, in proportion to the charges against the grant, than the percentage specified in the grant or any subsequent revision thereof.

(20 U.S.C. 1232c(a)(1).)

c. *Examination of records.*—The Secretary of Health, Education, and Welfare and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the grantee that are pertinent to the grant, at all reasonable times during the period of retention provided for in 45 CFR 100a.477 (retention of records).

(20 U.S.C. 1232c(a)(2).)

d. *Independent audit.*—Each State or local government grantee shall make appropriate provision for the auditing of project expenditure records in accordance with 45 CFR Part 100a, Subpart O (Financial Management Systems). Three copies of the reports of any such audits shall be promptly forwarded by the grantee to the cognizant department regional audit director for the region in which the grantee is located.

(20 U.S.C. 1232c (b)(2), (b)(3); OMB Circular No. A-73.)

e. *Period of retention.*—Except as provided in paragraph (5)(f), all records and books of accounts related to this grant in the possession of the grantee shall be preserved by the grantee in accordance with 45 CFR 100a.477 (retention of records).

(20 U.S.C. 1232c(a)(1).)

(20 U.S.C. 1232c(a).)

f. *Adjustments.*—The grantee shall (pursuant to 45 CFR 100a.53(c)), in maintaining project expenditure accounts, records, and reports, make any necessary adjustments to reflect refunds, credits, underpayments, or overpayments, as well as any adjustments resulting from administrative reviews and audits by the Federal Government or by the grantee. Such adjustments shall be set forth in the financial reports filed with the grants officer.

(20 U.S.C. 1232c(a)(1), 1232d.)

6. *Payment procedures.*—Payments under the grant shall be made in accordance with the payment schedule which is set forth in the special terms and conditions, or as costs occur, at the discretion of the grants officer.

(20 U.S.C. 1232d.)

7. *Reports.*—The grantee shall submit such fiscal and other reports as may be required in 45 CFR Part 100a, in the grant, or by the grants officer, and in the quantity and at the time stated in the report schedule which is set forth in the special terms and conditions.

(20 U.S.C. 1232c(b)(3).)

8. *Printing and duplicating.*—All printing or duplicating authorized under this grant is subject to the limitations and restrictions contained in the current issue of the "U.S. Government Printing and Binding Regulations" if done for the use of the U.S. Office of Education within the meaning of those regulations.

(44 U.S.C. 501.)

9. *Applicability of State and local laws and institutional procedures.*—Except to the extent specifically provided for in this grant or applicable Federal statutes and regulations, the grantee is subject to State and local laws, rules, regulations, and any instructional procedures which pertain to the expenditure of funds and which are designed to protect the public fisc.

(16 Comp. Gen. 948 (1937).)

10. *Copyrights.*—a. Any material of a copyrightable nature produced under the grant shall be subject to 45 CFR 100a.219(a) (Copyrights). Materials produced by trainees or fellows are not considered to be produced under the grant unless they are produced at the direction of the grantee.

b. With respect to any materials for which the securing of a copyright protection is authorized, the grantee hereby grants a royalty-free, nonexclusive and irrevocable license to the Government to publish, translate, reproduce, deliver, perform, use, and dispose of all such materials for governmental purposes.

c. To the extent the grantee has or acquires the right and permission to do so, the grantee hereby grants to the Government a royalty-free, nonexclusive and irrevocable license to use in any manner for governmental purposes, copyrighted material not first produced in the performance of this grant but which is incorporated in other materials so produced. The grantee shall advise the grants officer of any such copyrighted material known to it not to be covered by such a license.

(35 FR 7317; OMB Circular No. A-102, Attachment N.)

11. *Publications.*—a. Any publication or presentation resulting from or primarily related to the grant covered by these terms and conditions shall contain the acknowledgement set forth in 45 CFR 100a.218 (Publications).

b. Materials produced as a result of the grant may be published without prior review by the Commissioner. Five copies of such materials shall be furnished to the grants officer. If such materials are published for sale, disposition of the proceeds from such sale shall be governed by 45 CFR Part 100a, Subpart M (Program Income).

(20 U.S.C. 1221c(b)(1).)

12. *Patents.*—a. *Reference.*—Any inventions, whether or not patentable, produced under the grant shall be subject to the provisions contained in 45 CFR 100a.219 (Copyrights and patents).

b. *Reports.*—All inventions made in the course of or under any Office of Education grant shall be promptly and fully reported to the Assistant Secretary for Health, Department of Health, Education, and Welfare.

c. *Commitments.*—The grantee institution and the principal investigator shall neither have nor make any commitments or obligations which conflict with the requirements of this condition.

d. *Determination.*—Determination as to ownership and disposition of invention rights, including whether a patent application shall be filed, and if so, the manner of obtaining, administering, and disposing of rights under any patent application or patent which may be issued shall be either:

(1) By the Federal Government, or

(2) Where the institution has a separate formal institutional agreement with the Office of Education or the Department, by the grantee institution in accordance with such agreement. Patent applications shall not be filed on inventions under condition 12(d)(1) without prior written consent of the Federal Government. Any patent application filed by the grantee on an invention made in the course of or under an Office of Education grant shall include the following statement in the first paragraph of the sepcification:

"The invention described herein was made in the course of, or under, a grant from the U.S. Office of Education, Department of Health, Education, and Welfare."

e. *Other requirements.*—(1) A complete written disclosure of each invention in the form specified by the Assistant Secretary for Health shall be made by the grantee promptly after conception or first actual reduction to practice, whichever occurs first under the grant. Upon euqest, the grantee shall furnish such duly executed instruments (prepared by the Government) and such other papers as are deemed necessary to vest in the Government the rights reserved to it under this condition to enable the Government to apply for and prosecute any patent application, in any country, covering each invention where the Government has the right to file such application.

(2) The grantee shall furnish interim reports (Annual Invention Statements) prior to the continuation of any grant listing all inventions made during the budget period whether or not previously reported, or certifying that no inventions were made during performance of work on the supported project or certifying that no inventions were made during that work.

f. *Supplementary patent agreements.*—The grantee shall obtain appropriate patent agreements to fulfill the requirements of this condition from all persons who perform any part of the work under the grant, except such clerical and manual labor personnel as will have no access to technical data, and except as otherwise authorized in writing by the Department.

The grantee shall insert in each subcontract or agreement having experimental, developmental, or research work as one of its purposes, a clause making this provision applicable to the subcontractor and its employees.

g. *Definitions.*—As used in this section,

(1) "Invention" or "invention or discovery" includes any art, machine, manufacture, design, or composition of matter, or any new and useful improvement thereof, or any variety of plant, which is or may be patentable under the Patent Laws of the United States.

(2) "Made" when used in relation to any invention or discovery means the conception or first actual reduction to practice of such invention in the course of the grant.

h. *Fellows.*—Except as specifically set forth in the grant, inventions made by a fellowship recipient during the term of his award shall be subject to this condition in cases where the fellowship was awarded to support an identifiable research project.
(45 CFR Parts 6 and 8)

13. *Travel.*—Travel allowances, where allowable, shall be paid in accordance with the principles contained in the applicable documents set forth in 45 CFR Part 100a, Subpart G (Cost Principles). No foreign travel is authorized under the grant unless prior approval is received from the gants officer. Travel between the United States and Guam, American Samoa, Puerto Rico, the U.S. Virgin Islands, the Canal Zone, the Trust Territory, and Canada is not considered foreign travel.

(16 Comp. Gen. 948 (1937).)

14. *Personal property.*—The grantee shall be accountable for personal property purchased with grant funds in accordance with 45 CFR Part 100a, Subpart L (Property Management Requirements).

(OMB Circular No. A-102, Attachment N.)

15 *Contracting under grants.*—Where appropriate, the grantee may enter into contracts (to the extent permitted by State and local laws) for the provision of part of the services under this grant by other appropriate public or private agencies or institutions, pursuant to 45 CFR. Such contract or agreement shall be subject to the provisions contained in 45 CFR 100a, Subpart I (Procurement standards).

(OMB Circular No. A-102, Attachment O.)

16. *Health and safety standards.*—Whenever the grantee, acting under the terms of the grant, rents, leases, purchases, or otherwise obtains classroom facilities (or any other facilities) which will be used by students and/or faculty, the Grantee shall comply with all health and safety regulations and laws applicable to similar facilities being used in that locality for such purpose.

(20 U.S.C. 1232c(b)(1).)

17. *Compensation.*—If a staff member or consultant is involved simultaneously in two or more projects supported by funds from the Federal Government, 45 CFR 100a.261 shall govern.

(20 U.S.C. 1232c(b)(2).)

18. *Labor standards.*—a. To the extent that grant funds will be used as a direct cost for construction, alteration, and repair (including painting and decorating) of facilities, the grantee shall furnish the grants officer with the following in order to obtain a wage determination from the Department of Labor:

(1) A description of the alteration or repair work and the estimated cost of the work to be performed at the site;

(2) The proposed advertising and bid opening dates for the work;

(3) The city, county, and State at which the work will be performed; and

(4) The name and address of the person to whom the necessary wage determination and labor standards provisions are to be sent for inclusion in contracts.

b. All of such information shall be submitted not later than 6 weeks prior to the advertisement for bids for the alteration or repair work to be performed. The grantee shall also include or have included in all such alterations or repairs the wage determination and labor standards provisions that are provided and required by the Secretary of Labor under 29 CFR parts 3 and 5.

(20 U.S.C. 1232b, 1232c(b)(3).)

19. *Equal employment opportunity.*—With respect to repair and minor remodeling, the grantee shall comply with and provide for contractor and subcontractor compliance with the requirements of Executive Order No. 11246, as amended by Executive Order No. 11375, and as implemented by 41 CFR part 60. The terms required by Executive Order No. 11246, as so amended, will be included in any contract for construction work, or modification thereof, as defined in said Executive order.

(E.O. No. 11246, as amended.)

20. *Use of consultants.*—a. The hiring and payments to consultants shall be in accordance with applicable State and local laws and regulations and grantee policies. However, for the use of and payment to consultants whose rate will exceed $100 per day, prior written approval for the use of such consultants must be obtained from the grants officer.

b. The grantee must maintain a written report for the files on the results on all consultations charged to this grant. This report must include, as a minimum: (1) The consultant's name, dates, hours, and amount charged to the grant; (2) the names of the grantee staff to whom the services are provided; and (3) the results of the subject matter of the consultation.

(c) On grants made to educational institutions for research or educational services, consultant fees may be paid to employees of the grantee institution only in unusual cases and provided one of the following sets of conditions is determined to exist:

(1) Consultation is across departmental lines and the work performed by the consultant is in addition to his regular departmental load, or

(2) Consultation involves a separate or remote operation and the work performed by the consultant is in addition to his regular departmental load.

The determination as to compliance with the above provisions may be made at the grantee level only by the head of the institution or his designated representative. In those cases where the designated representative is personally involved in the grant under consideration, this determination may only be made by the head of the institution.

(20 U.S.C. 1232c(b)(2), (b)(3).)

21. *Data-collection instruments.*—The grantee shall comply with 45 CFR 100a.263 (Data collection instruments).

(20 U.S.C. 1221c(b)(1).)

22. *Program income.*—The grantee shall comply with 45 CFR Part 100a, Subpart M (Program Income).

(OMB Circular No. A-102, Attachment E.)

23. *Change of key personnel.*—The grantee shall comply with 45 CFR 100a.260 (Changes in Key Personnel).

(20 U.S.C. 1232c(b)(1), (b)(3).)

24. *Animal care.*—Where research animals are used in any project financed wholly or in part with Federal funds, the grantee shall comply with 45 CFR 100a.270 (Treatment of animals).

(20 U.S.C. 1221c(b)(1).)

25. *Use of small businesses and minority owned businesses.* In order to stimulate small business enterprises and minority business enterprises and enable them to exercise a more effective role in the commercial life of the Nation, it is the policy of the Department and the Office of Education to encourage grantees to be aware of, solicit, and make use of such enterprises in the acquisition of services or products, including construction, alteration and renovation, consultant and other services, and procurement of supplies and equipment.

In carrying out this policy objective, grantees are encouraged to:

a. Become aware of those small business enterprises and minority business enterprises that are competent to perform the services or provide the products that the grantees usually acquire;

b. Ensure that such firms are included in invitations for bids or requests for proposals;

c. Make use of the advice and assistance available from Government organizations, such as the Small Business Administration, the Department's Office of Minority Business Assistance, and the Commerce Department's Office of Minority Business Enterprise; and

d. Contact the HEW regional engineer on construction, alteration, or repair projects.

(20 U.S.C. 1232c(b)(1).)

## APPENDIX B—COST PRINCIPLES FOR STATE AND LOCAL GOVERNMENTS

### PART I—GENERAL

A. *Purpose and scope.*—1. *Objectives.*—This appendix sets forth principles for determining the allowable costs of programs administered by State and local governments under grants from and contracts with the Federal Government. The principles are for the purpose of cost determination and are not intended to identify the circumstances or dictate the extent of Federal and State or local participation in the financing of a particular grant. They are designed to provide that federally assisted programs bear their fair share of costs recognized under these principles, except where restricted or prohibited by law. No provision for profit or other increment above cost is intended.

2. *Policy guides.*—The application of these principles is based on the fundamental premises that:

a. State and local governments are responsible for the efficient and effective administration of grant and contract programs through the application of sound management practices.

b. The grantee or contractor assumes the responsibility for seeing that federally assisted program funds have been expended and accounted for consistent with underlying agreements and program objectives.

c. Each grantee or contractor organization, in recognition of its own unique combination of staff facilities and experience, will have the primary responsibility for employing whatever form of organization and management techniques may be necessary to assure proper and efficient administration.

3. *Application.*—These principles will be applied in determining costs incurred by State and local governments under Federal grants and cost reimbursement type contracts (including subgrants and subcontracts) except those with (a) publicly financed educational institutions subject to appendix C to this subchapter and (b) publicly owned hospitals and other providers of medical care.

B. *Definitions.* 1. "Approval or authorization of the grantor Federal agency" means documentation evidencing consent prior to incurring specific cost.

2. "Cost allocation plan" means the documentation identifying, accumulating, and distributing allowable costs under grants and contracts together with the allocation methods used.

3. "Cost," as used herein, means cost as determined on a cash, accrual, or other basis acceptable to the Federal grantor agency as a discharge of the grantee's accountability for Federal funds.

4. "Cost objective" means a pool, center, or area established for the accumulation of cost. Such areas include organizational units, functions, objects or items of expense, as well as ultimate cost objectives including specific grants, projects, contracts, and other activities.

5. "Federal agency" means the U.S. Office of Education.

6. "Grant" means an agreement between the Federal Government and a State or local government whereby the Federal Government provides funds or aid in kind to carry out specified programs, services, or activities. The principles and policies stated in this appendix as applicable to grants in general also apply to any federally sponsored cost reimbursement type of agreement performed by a State or local government, including contracts, subcontracts and subgrants.

7. "Grant program" means those activities and operations of the grantee which are necessary to carry out the purposes of the grant, including any portion of the program financed by the grantee.

8. "Grantee" means the department or agency of State or local government which is responsible for administration of the grant.

9. "Local unit" means any political subdivision of government below the State level.

10. "Other State or local agencies" means departments or agencies of the State or local unit which provide goods, facilities, and services to a grantee.

11. "Services," as used herein, means goods and facilities, as well as services.

12. "Supporting services" means auxiliary functions necessary to sustain the direct effort involved in administering a grant program or an activity providing service to the grant program. These services may be centralized in the grantee department or in some other agency, and include procurement, payroll, personnel functions, maintenance and operation of space, data processing, accounting, budgeting, auditing, mail and messenger services, and the like.

C. *Basic guidelines.*—1. *Factors affecting allowability of costs.*—To be allowable under a grant program, costs must meet the following general criteria:

a. Be necessary and reasonable for proper and efficient administration of the grant program, be allocable thereto under these principles, and, except as specifically provided herein, not be a general expense required to carry out the overall responsibilities of State or local governments.

b. Be authorized of not prohibited under State or local laws or regulations.

c. Conform to any limitations or exclusions set forth in these principles, Federal laws, or other governing limitations as to types or amounts of cost items.

d. Be consistent with policies, regulations, and procedures that apply uniformly to both federally assisted and other activities of the unit of government of which the grantee is a part.

e. Be accorded consistent treatment through application of generally accepted accounting principles appropriate to the circumstances.

f. Not be allocable to or included as a cost of any other federally financed program in either the current or a prior period.

g. Be net of all applicable credits.

2. *Allocable costs.*—a. A cost is allocable to a particular cost objective to the extent of benefits received by such objective.

b. Any cost allocable to a particular grant or cost objective under the principles provided for in this appendix may not be shifted to other Federal grant programs to overcome fund deficiencies, avoid restrictions imposed by law or grant agreements, or for other reasons.

c. Where an allocation of joint cost will ultimately result in charges to a grant program, an allocation plan will be required as prescribed in section J.

3. *Applicable credits.*—a. Applicable credits refer to those receipts or reduction of expenditure-type transactions which offset or reduce expense items allocable to grants as direct or indirect costs. Examples of such transactions are: Purchase discounts; rebates or allowances; recoveries or indemnities on losses; sale of publications, equipment, and scrap; income from personal or incidental services; and adjustments of overpayments or erroneous charges.

b. Applicable credits may also arise when Federal funds are received or are available from sources other than the grant program involved to finance operations or capital items of the grantee. This includes costs arising from the use or depreciation of items donated or financed by the Federal Government to fulfill matching requirements under another grant program. These types of credits should likewise be used to reduce related expenditures in determining the rates or amounts applicable to a given grant.

D. *Composition of cost.*—1. *Total cost.*—The total cost of a grant program is comprised of the allowable direct cost incident to its performance, plus its allocable portion of allowable indirect costs, less applicable credits.

2. *Classification of costs.*—There is no universal rule for classifying certain costs as either direct or indirect under every accounting system. A cost may be direct with respect to some specific service or function, but indirect with respect to the grant or other ultimate cost objective. It is essential therefore that each item of cost be treated consistently either as a direct or an indirect cost. Specific guides for determining direct and indirect costs allocable under grant programs are provided in the sections which follow.

E. *Direct costs.*—1. *General.*—Direct costs are those that can be identified specifically with a particular cost objective. These costs may be charged directly to grants, contracts, or to other programs against which costs are finally lodged. Direct costs may also be charged to cost objectives used for the accumulation of costs pending distribution in due course to grants and other ultimate cost objectives.

2. *Application.*—Typical direct costs chargeable to grant programs are:

a. Compensation of employees for the time and effort devoted specifically to the execution of grant programs.

b. Cost of materials acquired, consumed, or expended specifically for the purpose of the grant.

c. Equipment and other approved capital expenditures.

d. Other items of expense incurred specifically to carry out the grant agreement.

e. Services furnished specifically for the grant program by other agencies, provided such charges are consistent with criteria outlined in section G of these principles.

F. *Indirect costs.*—1. *General.*—Indirect costs are those (a) incurred for a common or joint purpose benefiting more than one cost objective and (b) not readily assignable to the cost objectives specifically benefited, without effort disproportionate to the results achieved. The term "indirect costs," as used herein, applies to costs of this type originating in the grantee department, as well as those incurred by other departments in supplying goods, services and facilities, to the grantee department. To facilitate equitable distribution of indirect expenses to the cost objectives served, it may be necessary to establish a number of pools of indirect cost within a grantee department or in other agencies providing services to a grantee department. Indirect cost pools should be distributed to benefiting cost objectives on bases which will produce an equitable result in consideration of relative benefits derived.

2. *Grantee departmental indirect costs.*—All grantee departmental indirect costs, including the various levels of supervision, are eligible for allocation to grant programs provided they meet the conditions set forth in this appendix. In lieu of determining the actual amount of grantee departmental indirect cost allocable to a grant program, the following methods may be used:

a. *Predetermined fixed rates for indirect costs.*—A predetermined fixed rate for computing indirect costs applicable to a grant may be negotiated annually in situations where the cost experience and other pertinent facts available are deemed sufficient to enable the contracting parties to reach an informed judgment (1) as to the probable level of indirect costs in the grantee department during the period to be covered by the negotiated rate and (2) that the amount allowable under the predetermined rate would not exceed actual indirect cost.

b. *Negotiated lump sum for overhead.*—A negotiated fixed amount in lieu of indirect costs may be appropriate under circumstances where the benefits derived from a grantee department's indirect services cannot be readily determined as in the case of small, self-contained or isolated activity. When this method is used, a determination should be made that the amount negotiated will be approximately the same as the actual indirect cost that may be incurred. Such amounts negotiated in lieu of indirect costs will be treated as an offset to total indirect expenses of the grantee department before allocation to remaining activities. The base on which such remaining expenses are allocated should be appropriately adjusted.

3. *Limitation on indirect costs.*—a. Federal grants may be subject to laws that limit the amount of indirect cost that may be allowed. Agencies that sponsor grants of this type will establish procedures which will assure that the amount actually allowed for indirect costs under each such grant does not exceed the maximum allowable under the statutory limitation or the amount otherwise allowable under this appendix, whichever is the smaller.

b. When the amount allowable under a statutory limitation is less than the amount otherwise allocable as indirect costs under this appendix, the amount not recoverable as indirect costs under a grant may not be shifted to another federally sponsored grant program or contract.

G. *Costs incurred by agencies other than the grantee*—1. *General.*—The cost of service provided by other agencies may only include allowable direct costs of the service plus a pro rata share of allowable supporting costs (section B.12.) and supervision directly required in performing the service, but not supervision of a general nature such as that provided by the head of a department and his staff assistants not directly involved in operations. However, supervision by the head of a department or agency whose sole function is providing the service furnished would be an eligible cost. Supporting costs include those furnished by other units of the supplying department or by other agencies.

2. *Alternative methods of determining indirect cost.*—In lieu of determining actual indirect cost related to a particular service furnished by another agency, either of the following alternative methods may be used provided only one method is used for a

specific service during the fiscal year involved.

a. *Standard indirect rate.*—An amount equal to 10 percent of direct labor cost in providing the service performed by another State agency (excluding overtime, shift, or holiday premiums and fringe benefits) may be allowed in lieu of actual allowable indirect cost for that service.

b. *Predetermined fixed rate.*—A predetermined fixed rate for indirect cost of the unit or activity providing service may be negotiated as set forth in section F.2.a.

H. *Cost incurred by grantee department for others*—1. *General.*—The principles provided in section G. will also be used in determining the cost of services provided by the grantee department to another agency.

J. *Cost allocation plan*—1. *General.*—A plan for allocation of costs will be required to support the distribution of any joint costs related to the grant program. All costs included in the plan will be supported by formal accounting records which will substantiate the propriety of eventual charges.

2. *Requirements.*—The allocation plan of the grantee department should cover all joint costs of the department as well as costs to be allocated under plans of other agencies or organizational units which are to be included in the costs of federally sponsored programs. The cost allocation plans of all the agencies rendering services to the grantee department, to the extent feasible, should be presented in a single document. The allocation plan should contain, but not necessarily be limited to, the following:

a. The nature and extent of services provided and their relevance to the federally sponsored programs.

b. The items of expense to be included.

c. The methods to be used in distributing cost.

3. *Instructions for preparation of cost allocation plans.*—The Department of Health, Education, and Welfare, in consultation with the other Federal agencies concerned, will be responsible for developing and issuing the instructions for use by State and local government grantees in preparation of cost allocation plans. This responsibility applies to both central support services at the State and local government levels as well as indirect cost proposals of individual grantee departments.

4. *Negotiation and approval of indirect cost proposals for States.*—a. The Department of Health, Education, and Welfare, in collaboration with the other Federal agencies concerned, will be responsible for negotiation, approval and audit of cost allocation plans, which will be submitted to it by the States. These plans will cover central support service costs of the State.

b. At the grantee department level in a State, a single Federal agency will have responsibility similar to that set forth in a. above for the negotiation, approval, and audit of the indirect cost proposal. Cognizant Federal agencies have been designated for this purpose. Changes which may be required from time to time in agency assignments will be arranged by the Department of Health, Education, and Welfare in collaboration with the other interested agencies, and submitted to the Office of Management and Budget for final approval. A current list of agency assignments will be maintained by the Department of Health, Education, and Welfare.

c. Questions concerning the cost allocation plans approved under a. and b. above should be directed to the agency responsible for such approvals.

5. *Negotiation and approval of indirect cost proposals for local governments.*—a. Cost allocation plans will be retained at the local government level for audit by a designated Federal agency except in those cases where that agency requests that cost allocation plans be submitted to it for negotiation and approval.

b. A list of cognizant Federal agencies assigned responsibility for negotiation, approval, and audit of central support service cost allocation plans at the local government level is being developed. Changes which may be required from time to time in agency assignments will be arranged by the Department of Health, Education, and Welfare in collaboration with the other interested agencies and submitted to the Office of Management and Budget for final approval. A current list of agency assignments will be maintained by the Department of Health, Education, and Welfare.

c. At the grantee department level of local governments, the Federal agency with the predominant interest in the work of the grantee department will be responsible for necessary negotiation, approval, and audit of the indirect cost proposal.

## PART II. STANDARDS FOR SELECTED ITEMS OF COST

A. *Purpose and applicability*—1. *Objective.*—This part provides standards for determining the allowability of selected items of cost.

2. *Application.*—These standards will apply irrespective of whether a particular item of cost is treated as direct or indirect cost. Failure to mention a particular item of cost in the standards is not intended to imply that it is either allowable or unallowable, rather determination of allowability in each case should be based on the treatment of standards provided for similar or related items of cost. The allowability of the selected items of cost is subject to the general policies and principles stated in part I of this appendix.

B. *Allowable costs*—1. *Accounting.*—The cost of establishing and maintaining accounting and other information systems required for the management of grant programs is allowable. This includes cost incurred by central service agencies for these purposes. The cost of maintaining central accounting records required for overall State or local government purposes, such as appropriation and fund accounts by the Treasurer, Comptroller, or similar officials, is considered to be a general expense of Government and is not allowable.

2. *Advertising.*—Advertising media includes newspapers, magazines, radio and television programs, direct mail, trade papers, and the like. The advertising costs allowable are those which are solely for:

a. Recruitment of personnel required for the grant program.

b. Solicitation of bids for the procurement of goods and services required.

c. Disposal of scrap or surplus materials acquired in the performance of the grant agreement.

d. Other purposes specifically provided for in the grant agreement.

3. *Advisory councils.*—Costs incurred by State advisory councils or committees established pursuant to Federal requirements to carry out grant programs are allowable. The cost of like organizations is allowable when provided for in the grant agreement.

4. *Audit service.*—The cost of audits necessary for the administration and management of functions related to grant programs is allowable.

5. *Bonding.*—Costs of premiums on bonds covering employees who handle grantee agency funds are allowable.

6. *Budgeting.*—Costs incurred for the development, preparation, presentation, and execution of budgets are allowable. Costs for services of a central budget office are generally not allowable since these are costs of general government. However, where employees of the central budget office actively participate in the grantee agency's budget process, the cost of identifiable services is allowable.

7. *Building lease management.*—The administrative cost for lease management which includes review of lease proposals, maintenance of a list of available property for lease, and related activities is allowable.

8. *Central stores.*—The cost of maintaining and operating a central stores organization for supplies, equipment, and materials used either directly or indirectly for grant programs is allowable.

9. *Communications.*—Communication costs incurred for telephone calls or service, telegraph, teletype service, wide-area telephone service (WATS), centrex, telpak (tie lines), postage, messenger service and similar expenses are allowable.

10. *Compensation for personal services.*—a. *General.*—Compensation for personal services includes all remuneration, paid currently or accrued, for services rendered during the period of performance under the grant agreement, including but not necessarily limited to wages, salaries and supplementary compensation and benefits (section B.13.). The costs of such compensation are allowable to the extent that total compensation for individual employees: (1) Is reasonable for the services rendered; (2) follows an appointment made in accordance with State or local government laws and rules and which meets Federal merit system or other requirements, where applicable; and (3) is determined and supported as provided in b. below. Compensation for employees engaged in federally assisted activities will be considered reasonable to the extent that it is consistent with that paid for similar work in other activities of the State or local government. In cases where the kinds of employees required for the federally assisted activities are not found in the other activities of the State or local government, compensation will be considered reasonable to the extent that it is comparable to that paid for similar work in the labor market in which the employing government competes for the kind of employees involved. Compensation surveys providing data representative of the labor market involved will be an acceptable basis for evaluating reasonableness.

b. *Payroll and distribution of time.*—Amounts charged to grant programs for personal services, regardless of whether treated as direct or indirect costs, will be based on payrolls documented and approved in accordance with generally accepted practice of the State or local agency. Payrolls must be supported by time and attendance or equivalent records for individual employees. Salaries and wages of employees chargeable to more than one grant program or other cost objective will be supported by appropriate time distribution records. The method used should produce an equitable distribution of time and effort.

11. *Depreciation and use allowances.*—a. Grantees may be compensated for the use of buildings, capital improvements, and equipment through use allowances or depreciation. Use allowances are the means of providing compensation in lieu of depreciation or other equivalent costs. However, a combination of the two methods may not be used in connection with a single class of fixed assets.

b. The computation of depreciation or use allowance will be based on acquisition cost. Where actual cost records have not been maintained, a reasonable estimate of the original acquisition cost may be used in the computation. The computation will exclude the cost of any portion of the cost of buildings and equipment donated or borne directly or indirectly by the Federal Government through charges to Federal grant programs or otherwise, irrespective of where title was originally vested or where it presently resides. In addition, the computation will also exclude the cost of land. Depreciation or a use allowance on idle or excess facilities is not allowable, except when specifically authorized by the grantor Federal agency.

c. Where the depreciation method is followed, adequate property records must be maintained, and any generally accepted method of computing depreciation may be used. However, the method of computing depreciation must be consistently applied for any specific asset or class of assets for all affected federally sponsored programs and must result in equitable charges considering the extent of the use of the assets for the benefit of such programs.

d. In lieu of depreciation, a use allowance for buildings and improvements may be computed at an annual rate not exceeding 2 percent of acquisition cost. The use allowance for equipment (excluding items properly capitalized as building cost) will be computed at an annual rate not exceeding $6\frac{2}{3}$ percent of acquisition cost of usable equipment.

e. No depreciation or use charge may be allowed on any assets that would be considered as fully depreciated, provided, however, that reasonable use charges may be negotiated for any such assets if warranted after taking into consideration the cost of the facility or item involved, the estimated useful life remaining at time of negotiation, the effect of any increased maintenance charges or decreased efficiency due to age, and any other factors pertinent to the utilization of the facility or item for the purpose contemplated.

12. *Disbursing service.*—The cost of disbursing grant program funds by the Treasurer or other designated officer is allowable. Disbursing services cover the processing of checks or warrants, from preparation to redemption, including the necessary records of accountability and reconciliation of such records with related cash accounts.

13. *Employee fringe benefits.*—Costs identified under a. and b. below are allowable to the extent that total compensation for employees is reasonable as defined in section B.10.

a. Employee benefits in the form of regular compensation paid to employees during periods of authorized absences from the job, such as for annual leave, sick leave, court leave, military leave, and the like, if they are: (1) Provided pursuant to an approved leave system and (2) the cost thereof is equitably allocated to all related activities, including grant programs.

b. Employee benefits in the form of employer's contribution or expenses for social security, employees' life and health insurance plans, unemployment insurance coverage, workmen's compensation insurance, pension plans, severance pay, and the like, provided such benefits are granted under approved plans and are distributed equitably to grant programs and to other activities.

14. *Employee morale, health and welfare costs.*—The costs of health or first-aid clinics and/or infirmaries, recreational facilities, employees' counseling services, employee information publications, and any related expenses incurred in accordance with general State or local policy, are allowable. Income generated from any of these activities will be offset against expenses.

15. *Exhibits.*—Costs of exhibits relating specifically to the grant programs are allowable.

16. *Legal expenses.*—The cost of legal expenses required in the administration of grant programs is allowable. Legal services furnished by the chief legal officer of a State or local government or his staff solely for the purpose of discharging his general responsibilities as legal officer are unallowable. Legal expenses for the prosecution of claims against the Federal Government are unallowable.

17. *Maintenance and repair.*—Costs incurred for necessary maintenance, repair, or upkeep of property which neither add to the permanent value of the property nor appreciably prolong its intended life, but keep it in an efficient operating condition, are allowable.

18. *Materials and supplies.*—The cost of materials and supplies necessary to carry out the grant programs is allowable. Purchases made specifically for the grant program should be charged thereto at their actual prices after deducting all cash discounts, trade discounts, rebates, and allowances received by the grantee. Withdrawals from general stores or stockrooms should be charged at cost under any recognized method of pricing consistently applied. Incoming transportation charges are a proper part of material cost.

19. *Memberships, subscriptions and professional activities.*—a. *Memberships.*—The cost of membership in civic, business, technical and professional organizations is allowable provided: (1) The benefit from the membership is related to the grant program, (2) the expenditure is for agency membership, (3) the cost of the membership is reasonably related to the value of the services of benefits received, and (4) the expenditure is not for membership in an organization which devotes a substantial part of its activities to influencing legislation.

b. *Reference material.*—The cost of books, and subscriptions to civic, business, professional, and technical periodicals is allowable when related to the grant program.

c. *Meetings and conferences.*—Costs are allowable when the primary purpose of the meeting is the dissemination of technical information relating to the grant program and they are consistent with regular practices followed for other activities of the grantee.

20. *Motor pools.*—The costs of a service organization which provides automobiles to user grantee agencies at a mileage or fixed rate and/or provides vehicle maintenance, inspection, and repair services are allowable.

21. *Payroll preparation.*—The cost of preparing payrolls and maintaining necessary related wage records is allowable.

22. *Personnel administration.*—Costs for the recruitment, examination, certification, classification, training, establishment of pay standards, and related activities for grant programs are allowable.

23. *Printing and reproduction.*—Costs for printing and reproduction services necessary for grant administration, including but not limited to forms, reports, manuals, and informational literature is allowable. Publication costs of reports or other media relating to grant program accomplishments or results are allowable when provided for in the grant agreement.

24. *Procurement service.*—The cost of procurement service, including solicitation of bids, preparation and award of contracts, and all phases of contract administration in providing goods, facilities, and services for grant programs is allowable.

25. *Taxes.*—In general, taxes or payments in lieu of taxes which the grantee agency is legally required to pay are allowable.

26. *Training and education.*—The cost of in-service training, customarily provided for employee development which directly or indirectly benefits grant programs is allowable. Out-of-service training involving extended periods of time is allowable only when specifically authorized by the grantor agency.

27. *Transportation.*—Costs incurred for freight, cartage, express, postage, and other transportation costs relating either to goods purchased, delivered, or moved from one location to another are allowable.

28. *Travel.*—Travel costs are allowable for expenses for transportation, lodging, subsistence, and related items incurred by employees who are travel status on official business incident to a grant program. Such costs may be charged on an actual basis, on a per diem or mileage basis in lieu of actual costs incurred, or on a combination of the two, provided the method used is applied to an entire trip, and results in charges consistent with those normally allowed in like circumstances in nonfederally sponsored activities. The difference in cost between first-class air accommodations and less-than-first-class air accommodations is unallowable except when less-than-first-class air accommodations are not reasonably available.

C. *Costs allowable with approval of grantor agency*—1. *Automatic data processing.*—The cost of data processing services to grant programs is allowable. This cost may include rental of equipment or depreciation on grantee-owned equipment. The acquisition of equipment, whether by outright purchase, rental-purchase agreement or other method of purchase, is allowable only upon specific prior approval of the grantor Federal agency as provided under the selected item for capital expenditures.

2. *Building space and related facilities.*—The cast of space in privately or publicly owned buildings used for the benefit of the grant program is allowable subject to the conditions stated below. The total cost of space, whether in a privately or publicly owned building, may not exceed the rental cost of comparable space and facilities in a privately owned building in the same locality. The cost of space procured for grant program usage may not be charged to the program for periods of nonoccupancy, without authorization of the grantor Federal agency.

a. *Rental cost.*—The rental cost of space in a privately owned building is allowable.

b. *Maintenance and operation.*—The cost of utilities, insurance, security, janitorial services, elevator service, upkeep of grounds, normal repairs and alterations and the like, is allowable to the extent they are not otherwise included in rental or other charges for space.

c. *Rearrangements and alterations.*—Cost incurred for rearrangement and alteration of facilities required specifically for the grant program or those that materially increase the value or useful life of the facilities (sec. C.3) is allowable when specifically approved by the grantor agency.

d. *Depreciation and use allowances on publicly owned buildings.*—These costs are allowable as provided in section B.11.

e. *Occupancy of space under rental-purchase or a lease with option-to-purchase agreement.*—The cost of space procured under such arrangements is allowable when specifically approved by the Federal grantor agency.

3. *Capital expenditures.*—The cost of facilities, equipment, other capital assets, and repairs which materially increase the value or useful life of capital assets is allowable when such procurement is specifically approved by the Federal grantor agency. When assets acquired with Federal grant funds are (a) Sold, (b) no longer available for use in a federally sponsored program, or (c) used for purposes not authorized by the grantor agency, the Federal grantor agency's equity in the asset will be refunded in the same proportion as Federal participation in its cost. In case any assets are traded on new

items, only the net cost of the newly acquired assets is allowable.

4. *Insurance and indemnification.*—a. Costs of insurance required, or approved and maintained pursuant to the grant agreement, are allowable.

(b) Costs of other insurance in connection with the general conduct of activities are allowable subject to the following limitations:

(1) Types and extent and cost of coverage will be in accordance with general State or local government policy and sound business practice.

(2) Costs of insurance or of contributions to any reserve covering the risk of loss of, or damage to, Federal Government property are unallowable except to the extent that the grantor agency has specifically required or approved such costs.

c. Contributions to a reserve for a self-insurance program approved by the Federal grantor agency are allowable to the extent that the type of coverage, extent of coverage, and the rates and premiums would have been allowed had insurance been purchased to cover the risks.

d. Actual losses which could have been covered by permissible insurance (through an approved selfinsurance program or otherwise) are unallowable unless expressly provided for in the grant agreement. However, costs incurred because of losses not covered under nominal deductible insurance coverage provided in keeping with sound management practice, and minor losses not covered by insurance, such as spoilage, breakage, and disappearance of small hand tools which occur in the ordinary course of operations, are allowable.

e. Indemnification includes securing the grantee against liabilities to third persons and other losses not compensated by insurance or otherwise. The Government is obligated to indemnify the grantee only to the extent expressly provided for in the grant agreement, except as provided in d above.

5. *Management studies.*—The cost of management studies to improve the effectiveness and efficiency of grant management for ongoing programs is allowable except that the cost of studies performed by agencies other than the grantee department or outside consultants is allowable only when authorized by the Federal grantor agency.

6. *Preagreement costs.*—Costs incurred prior to the effective date of the grant or contract, whether or not they would have been allowable thereunder if incurred after such date, are allowable when specifically provided for in the grant agreement.

7. *Professional services.*—Cost of professional services rendered by individuals or organizations not a part of the grantee department is allowable subject to such prior authorization as may be required by the Federal grantor agency.

8. *Proposal costs.*—Costs of preparing proposals on potential Federal Government grant agreements are allowable when specifically provided for in the grant agreement.

D. *Unallowable costs.*—1. *Bad debts.*—Any losses arising from uncollectible accounts and other claims, and related costs, are unallowable.

2. *Contingencies.*—Contributions to a contingency reserve or any similar provision for unforeseen events are unallowable.

3. *Contributions and donations.*—Unallowable.

4. *Entertainment.*—Costs of amusements, social activities, and incidental costs relating thereto, such as meals, beverages, lodgings, rentals, transportation, and gratuities, are unallowable.

5. *Fines and penalties.*—Costs resulting from violations of, or failure to comply with Federal, State, and local laws and regulations are unallowable.

6. *Governor's expenses.*—The salaries and expenses of the Office of the Governor of a State or the chief executive of a political subdivision are considered a cost of general State or local government and are unallowable.

7. *Interest and other financial costs.*—Interest on borrowings (however represented), bond discounts, cost of financing and refinancing operations, and legal and professional fees paid in connection therewith, are unallowable except when authorized by Federal legislation.

8. *Legislative expenses.*—Salaries and other expenses of the State legislature or similar local governmental bodies such as county supervisors, city councils, school boards, etc., whether incurred for purposes of legislation or executive direction, are unallowable.

9. *Underrecovery of costs under grant agreements.*—Any excess of cost over the Federal contribution under one grant agreement is unallowable under other grant agreements.

(OMB Circular No. A-87.)

## APPENDIX C—COST PRINCIPLES FOR EDUCATIONAL INSTITUTIONS

### PART I. PRINCIPLES FOR DETERMINING COSTS APPLICABLE TO RESEARCH AND DEVELOPMENT UNDER GRANTS AND CONTRACTS WITH EDUCATIONAL INSTITUTIONS

A. *Purpose and scope.*—1. *Objectives.*—This appendix provides principles for determining the costs applicable to research and development work (part I) and training (part II) performed by educational institutions under grants from and contracts with the Federal Government. These principles are confined to the subject of cost determination and make no attempt to identify the circumstances or dictate the extent of agency and institutional participation in the financing of a particular research or development or training project. The principles are designed to provide recognition of the full allocated costs of such research or training work under generally accepted accounting principles. No provision for profit or other increment above cost is intended.

2. *Policy guides.*—The successful application of these principles requires development of mutual understanding between representatives of universities and of the Federal Government as to their scope, implementation, and interpretation. It is recognized that—

a. The arrangements for agency and institutional participation in the financing of a research and development project are properly subject to negotiation between the agency and the institution concerned in accordance with such Government-wide criteria as may be applicable.

b. Each college and university, possessing its own unique combination of staff, facilities and experience, should be encouraged to conduct research in a manner consonant with its own academic philosophies and institutional objectives.

c. Each institution, in the fulfillment of its obligations, should employ sound management practices.

d. The application of the principles established herein should require no significant changes in the generally accepted accounting practices of colleges and universities.

e. Institutions shall apply the cost principles and standards herein provided on a consistent basis. Where wide variations exist in the treatment of a given cost item among institutions, the reasonableness and equitableness of such treatments will be fully considered during the rate negotiations and audit.

3. *Application.*—The Commissioner will apply these principles and related policy guides in determining the costs incurred for such work under any type of research and development agreement. These principles will also be used as a guide in the pricing of fixed price contracts or lump sum agreements.

B. *Definition of terms.*—1. "Organized research" means all research activities of an institution that are separately budgeted and accounted for.

2. "Departmental research" means research activities that are not separately budgeted and accounted for. Such research work, which includes all research activities not encompassed under the term "organized research," is regarded for purposes of this document as a part of the instructional activities of the institution.

3. "Research agreement" means any valid arrangement to perform federally sponsored research, including grants, cost-reimbursement type contracts, cost-reimbursement type subcontracts, and fixed-price contracts and subcontracts for research.

4. "Other institutional activities" means all organized activities of an institution not directly related to the instruction and research functions, such as residence halls, dining halls, student hospitals, student unions, intercollegiate athletics, bookstores, faculty housing, student apartments, guest houses, chapels, theaters, public museums, and other similar activities or auxiliary enterprises. Also included under this definition is any other category of cost treated as "unallowable," provided such category of cost identifies a function or activity to which a portion of the institutions indirect costs (as defined in section E.1.) are properly allocable.

5. "Apportionment" means the process by which the indirect costs of the institution are assigned as between (a) instruction and research and (b) other institutional activities.

6. "Allocation" means the process by which the indirect costs apportioned to instruction and research are assigned as between (a) organized research and (b) instruction, including departmental research.

7. "Stipulated salary support" is a fixed or a stated dollar amount of the salary of professional or other professional staff involved in the conduct of research which a Government agency agrees in advance to reimburse an educational institution as a part of sponsored research costs.

8. "Federal agency or sponsoring agency" means the U.S. Office of Education.

C. *Basic considerations.*—1. *Composition of total costs.*—The cost of a research agreement is comprised of the allowable direct costs incident to its performance, plus the allocable portion of the allowable indirect costs of the institution, less applicable credits as described in section C.5.

2. *Factors affecting allowability of costs.*—The tests of allowability of costs under these principles are: (a) They must be reasonable; (b) they must be allocable to research agreements under the standards and methods provided herein; (c) they must be accorded consistent treatment through application of those generally accepted accounting principles appropriate to the circumstances; and (d) they must conform to any limitations or exclusions set forth in these principles or in the research agreement as to types or amounts of cost items.

3. *Reasonable costs.*—A cost may be considered reasonable if the nature of the goods or services acquired or applied, and the amount involved therefor, reflect the action that a prudent person would have taken under the circumstances prevailing at the time the decision to incur the cost was made. Major considerations involved in the determination of the reasonableness of a cost are: (a) Whether or not the cost is of a type generally recognized as necessary for the operation of the institution or the performance of the re-

search agreement; (b) the restraints or requirements imposed by such factors as arm's-length bargaining, Federal and State laws and regulations, and research agreement terms and conditions; (c) whether or not the individuals concerned acted with due prudence in the circumstances, considering their responsibilities to the institution, its employees, its students, the Government, and the public at large; and (d) the extent to which the actions taken with respect to the incurrence of the cost are consistent with established institutional policies and practices applicable to the work of the institution generally, including Government research.

4. *Allocable costs.*—a. A cost is allocable to a particular cost objective (i.e., a specific function, project, research agreement, department, or the like) if the goods or services involved are chargeable or assignable to such cost objective in accordance with relative benefits received or other equitable relationship. Subject to the foregoing, a cost is allocable to a research agreement if it is incurred solely to advance the work under the research agreement; or it benefits both the research agreement and other work of the institution in proportions that can be approximated through use of reasonable methods; or it is necessary to the overall operation of the institution and, in the light of the standards provided in this appendix, is deemed to be assignable in part to organized research. Where the purchase of equipment or other capital items is specifically authorized under a research agreement, the amounts thus authorized for such purchases are allocable to the research agreement regardless of the use that may subsequently be made of the equipment or other capital items involved.

b. Any costs allocable to a particular research agreement under the standards provided in this appendix may not be shifted to other research agreements in order to meet deficiencies caused by overruns or other fund considerations, to avoid restrictions imposed by law or by terms of the research agreement, or for other reasons of convenience.

5. *Applicable credits.*—a. The term applicable credits refers to those receipt or negative expenditure types of transactions which operate to offset or reduce expense items that are allocable to research agreements as direct or indirect costs. Typical examples of such transactions are: Purchase discounts, rebates, or allowances; recoveries or indemnities on losses; sales of scrap or incidental services; and adjustments of overpayments or erroneous charges.

b. In some instances, the amounts received from the Federal Government to finance institutional activities or service operations should be treated as applicable credits. Specifically, the concept of netting such credit items against related expenditures should be applied by the institution in determining the rates or amounts to be charged to Government research for services rendered whenever the facilities or other resources used in providing such services have been financed directly, in whole or in part, by Federal funds. (See sections F.6., J.10.b., and J.37. for areas of potential application in the matter of direct Federal financing.)

6. *Costs incurred by State and local governments.*—Costs incurred or paid by State or local governments in behalf of educational institutions for certain personnel benefit programs such as pension plans, FICA and any other costs specifically disbursed in behalf of and in direct benefit to the institutions, are allowable costs of such institutions whether or not these costs are recorded in the accounting records of such institutions, subject to the following:

a. Such costs meet the requirements of sections C.1. through C.5.

b. Such costs are properly supported by cost allocation plans in accordance with appendix B to this part.

c. Such costs are not otherwise borne directly or indirectly by the Federal Government.

D. *Direct costs.*—1. *General.*—Direct costs are those costs which can be identified specifically with a particular research project, an instructional activity or any other institutional activity or which can be directly assigned to such activities relatively easily with a high degree of accuracy.

2. *Application to research agreements.*—Identifiable benefit to the research work rather than the nature of the goods and services involved is the determining factor in distinguishing direct from indirect costs of research agreements. Typical transactions chargeable to a research agreement as direct costs are the compensation of employees for performance of work under the research agreement, including related staff benefit and pension plan costs to the extent that such items are consistently treated by the educational institution as direct rather than indirect costs; the costs of materials consumed or expended in the performance of such work; and other items of expense incurred for the research agreement, including extraordinary utility consumption. The cost of materials supplied from stock or services rendered by specialized facilities or other institutional service operations may be included as direct costs of research agreements provided such items are consistently treated by the institution as direct rather than indirect costs and are charged under a recognized method of costing or pricing designed to recover only actual costs and conforming to generally accepted cost accounting practices consistently followed by the institution.

E. *Indirect costs.*—1. *General.* Indirect costs are those that have been incurred for common or joint objectives and therefore cannot be identified specifically with a particular research project, an instructional activity or any other institutional activity. At educational institutions such costs normally are classified under the following functional categories: General administration and general expenses; research administration expenses; operation and maintenance expenses; library expenses; and departmental administration expenses.

2. *Criteria for distribution.*—a. *Base period.* A base period for distribution of indirect costs is the period during which such costs are incurred and accumulated for distribution to work performed within that period. The base period normally should coincide with the fiscal year established by the institution, but in any event the base period should be so selected as to avoid inequities in the distribution of costs.

b. *Need for cost groupings.*—The overall objective of the allocation and apportionment process is to distribute the indirect costs described in section F to organized research, instruction, and other activities in reasonable proportions consistent with the nature and extent of the use of the institution's resources by research personnel, academic staff, students, and other personnel or organizations. In order to achieve this objective, it may be necessary to provide for selective distribution by establishing separate groupings of cost within one or more of the functional categories of indirect costs referred to in section E.1. In general, the cost groupings established within a functional category should constitute, in each case, a pool of those items of expense that are considered to be of like character in terms of their relative contribution to (or degree of remoteness from) the particular cost objectives to which distribution is appropriate. Cost groupings should be established considering the general guides provided in c. below. Each such pool or cost grouping should then be distributed individually to the appertaining cost objectives, using the distribution base or method most appropriate in the light of the guides set out in d. below.

c. *General considerations on cost groupings.*—The extent to which separate cost groupings and selective distribution would be appropriate at an institution is a matter of judgment to be determined on a case-by-case basis. Typical situations which may warrant the establishment of two or more separate cost groups (based on account classification or analysis) within a functional category include but are not limited to the following:

(1) Where certain items or categories of expense relate solely to one of the three major divisions of the institution (instruction, organized research or other institutional activities) or to any two but not the third, such expenses should be set aside as a separate cost grouping for direct assignment or selective distribution in accordance with the guides provided in b. above and d. below.

(2) Where any types of expense ordinarily treated as general administration and general expenses or departmental administration expenses are charged to research agreements as direct costs, the similar type expenses applicable to other activities of the institution must, through separate cost groupings, be excluded from the indirect costs allocable to those research agreements and included in the direct cost of other activities for cost allocation purposes.

(3) Where it is determined that certain expenses are for the support of a service unit or facility whose output is susceptible of measurement on a workload or other quantitative basis, such expenses should be set aside as a separate cost grouping for distribution on such basis to organize research and other activities at the institution or within the department.

(4) Where organized activities (including identifiable segments of organized research as well as the activities cited in section B.4.) provide their own purchasing, personnel administration, building maintenance or similar service, the distribution of general administration and general expenses or operation and maintenance expenses to such activities should be accomplished through cost groupings which include only that portion of central indirect costs (such as for overall management) which are properly allocable to such activities.

(5) Where the institution elects to treat as indirect charges the cost of the pension plan and other staff benefits, such costs should be set aside as a separate cost grouping for selective distribution to appertaining cost objectives, including organized research.

(6) The number of separate cost groupings within a functional category should be held within practical limits after taking into consideration the materiality of the amounts involved and the degree of precision attainable through less selective methods of distribution.

d. *Selection of distribution method.*—(1) Actual conditions must be taken into account in selecting the method or base to be used in distributing to applicable cost objectives the expenses assembled under each of the individual cost groupings established as indicated under b. above. Where a distribution can be made by assignment of a cost grouping directly to the area benefited, the distribution should be made in that manner. Where the expenses under a cost grouping are more general in nature, the distribution to appertaining cost objectives should be made through use of a selected base which will produce results that are equitable to both the Government and the institution. In general, any cost element or cost-related factor associated with the institution's work is potentially adaptable for use as a distribution base provided (a) it can readily be expressed in terms of dollars or other quantitative measure (total direct expenditures, direct salaries, man-hours applied, square feet utilized, hours of usage, number of documents processed, population served, and the like); and (b) it is common to the appertaining cost objectives during the base period.

(2) Results of cost analysis studies may be used when they result in more accurate and equitable distribution of costs. Such cost analysis studies may take into consideration weighting factors, population, or space occupied if they produce equitable results. Cost analysis studies, however, should (a) be appropriately documented in sufficient detail for subsequent review by the cognizant Federal agency, (b) distribute the indirect costs to the appertaining cost objectives in accord with the relative benefits derived, (c) be conducted to fairly reflect the true conditions of the activity and to cover representative transactions for a reasonable period of time, (d) be performed specifically at the institution at which the results are to be used, and (e) be updated periodically and used consistently. Any assumptions made in the study will be sufficiently supported. The use of cost analysis studies and periodic changes in the method of cost distribution must be fully justified.

(3) The essential consideration in selection of the distribution base in each instance is that it be the one best suited for assigning the pool of costs to appertaining cost objectives in accord with the relative benefits derived; the traceable cause and effect relationship; or logic and reason, where neither benefit nor cause and effect relationship is determinable.

3. *Administration of limitations on allowances for research costs.*—Research agreements may be subject to statutory or administrative policies that limit the allowance of research costs. When the maximum amount allowable under a statutory limitation or the terms of a research agreement is less than the amount otherwise reimbursable under this appendix, the amount not recoverable under that research agreement may not be charged to other research agreements.

*F. Identification and assignment of indirect costs.*—1. *General administration and general expenses.*—a. The expenses under this heading are those that have been incurred for the general executive and administrative offices of educational institutions and other expenses of a general character which do not relate solely to any major division of the institution; i.e., solely to (1) instruction, (2) organized research, or (3) other institutional activities. The general administration and general expense category should also include the staff benefit and pension plan costs applicable to the salaries and wages included therein, an appropriate share of the costs of the operation and maintenance of the physical plant, and charges representing use allowances and/or depreciation applicable to the buildings and equipment utilized in performing the functions represented thereunder.

b. The expenses included in this category may be apportioned and allocated on the basis of total expenditures exclusive of capital expenditures in situations where the results of the distribution made on this basis are deemed to be equitable both to the Government and the institution; otherwise the distribution of general administration and general expenses should be made through use of selected bases applied to separate cost groupings established within this category of expenses in accordance with the guides set out in section E.2.d.

2. *Research administration expenses.*—a. The expenses under this heading are those that have been incurred by a separate organization or identifiable administrative unit established solely to administer the research activity, including such functions as contract administration, security, purchasing, personnel administration, and editing and publishing of research reports. They include the salaries and expenses of the head of such research organization, his assistants, and their immediate secretarial staff together with the salaries and expenses of personnel engaged in supporting activities maintained by the research organization, such as stock rooms, stenographic pools, and the like. The salaries of members of the professional staff whose appointments or assignments involve the performance of such administrative work may also be included to the extent that the portion so charged to research administration is supported as required by section J.7. The research administration expense category should also include the staff benefit and pension plan costs applicable to the salaries and wages included therein, an appropriate share of the costs of the operation and maintenance of the physical plant, and charges representing use allowance and/or depreciation applicable to the buildings and equipment utilized in performing the functions represented thereunder.

b. The expenses included in this category should be allocated to organized research and, where necessary, to departmental research or to any other benefiting activities on any basis reflecting the proportion fairly applicable to each. (See section E.2.d.)

3. *Operation and maintenance expenses.*—a. The expenses under this heading are those that have been incurred by a central service organization or at the departmental level for the administration, supervision, operation, maintenance, preservation, and protection of the institution's physical plant. They include expenses normally incurred for such items as janitorial and utility services; repairs and ordinary or normal alterations of buildings, furniture, and equipment; and care of grounds and maintenance and operation of buildings and other plan facilities. The operation and maintenance expense category should also include the staff benefit and pension plan costs applicable to the salaries and wages included therein, and charges representing use allowance and/or depreciation applicable to the buildings and equipment utilized in performing the functions represented thereunder.

b. The expenses included in this category should be apportioned and allocated to applicable cost objectives in a manner consistent with the guides provided in section E.2. on a basis that gives primary emphasis to space utilization. The allocations and apportionments should be developed as follows: (1) Where actual space and related cost records are available or can readily be developed and maintained without significant change in the accounting practices, the amount distributed should be based on such records; (2) where the space and related cost records maintained are not sufficient for purposes of the foregoing, a reasonable estimate of the proportion of total space assigned to the various cost objectives normally will suffice as a means for effecting distribution of the amounts of operation and maintenance expenses involved; or (3) where it can be demonstrated that an area or volume of space basis of allocation is impractical or inequitable, other bases may be used provided consideration is given to the use of facilities by research personnel and others, including students.

4. *Library expenses.*—a. The expenses under this heading are those that have been incurred for the operation of the library, including the costs of books and library materials purchased for the library, less any items of library income that qualify as applicable credits under section C.5. The library expense category should also include the staff benefit and pension plan costs applicable to the salaries and wages included therein, an appropriate share of the costs of the operation and maintenance of the physical plant, and charges representing use allowances and/or depreciation applicable to the buildings and equipment utilized in the performance of the functions represented thereunder. Costs incurred in the purchases of rare books (museum-type books) with no research value should not be allocated to Government-sponsored research.

b. The expenses included in this category should be allocated on the basis of population including students and other users. Where the results of the distribution made on this basis are deemed to be inequitable to the Government or the institution, the distribution should then be made on a selective basis in accordance with the guides set out in section E.2. Such selective distribution should be made through use of reasonable methods which give adequate recognition to the utilization of the library attributable to faculty, research personnel, students, and others. The method used will be based on data developed periodically on the respective institution's experience for representative periods.

5. *Departmental administration expenses.*—a. The expenses under this heading are those that have been incurred in academic deans' offices, academic departments, and organized research units such as institutes, study centers, and research centers for administrative and supporting services which benefit common or joint departmental activities or objectives. They include the salaries and expenses of deans or heads, or associate deans or heads, of colleges, schools, departments, divisions, or organized research units, and their administrative staffs together with the salaries and expenses of personnel engaged in supporting activities maintained by the department, such as stockrooms, stenographic pools, and the like provided such supporting services cannot be directly identified with a specific research project, with an instructional activity or with any other institutional activity. The salaries of other members of the professional staff whose appointments or assignments involve the performance of such administrative work may also be included to the extent that the portion so charged to departmental administration expenses is supported as required by section J.7. The departmental administration expense category should also include the staff benefit and pension plan costs applicable to the salaries and wages included therein, an appropriate share of the costs of the operation and maintenance of the physical plant, and charges representing use allowances and/or depreciation applicable to the buildings and equipment utilized in performing the functions represented thereunder.

b. The distribution of departmental administration expenses should be made through use of selected bases applied to cost groupings established within this category of expenses in accordance with the guides set out in section E.2.d.

6. *Setoff for indirect expenses otherwise provided for by the Government.*—a. The items to be accumulated under this heading are the reimbursements and other receipts from the Federal Government which are used by the institution to support directly, in whole or in part, any of the administrative or service (indirect) activities described in the foregoing (secs. F.1. through F.5.). They include any amounts thus applied to such activities which may have been received pursuant to an institutional base grant or any similar contractual arrangement with the Federal Government other than a research agreement as herein defined (sec. B.3.).

b. The sum of the items in this group shall be treated as a credit to the total indirect cost pool before it is apportioned to organized research and to other activities. Such setoff shall be made prior to the determination of the indirect cost rate or rates as provided in section G.

G. *Determination and application of indirect cost rate or rates.*—1. *Indirect cost pools.*—a. Subject to b. below, indirect costs allocated to organized research should be treated as a common pool, and the costs in such common pool should then be distributed to individual research agreements benefiting therefrom on a single rate basis.

b. In some instances a single rate basis for use across the board on all Government research at an institution may not be appropriate, since it would not take into account those different environmental factors which may affect substantially the indirect costs applicable to a particular segment of Government research at the institution. For this purpose, a particular segment of Government research may be that performed under a single research agreement or it may consist of research under a group of research agreements performed in a common environment. The environmental factors are not limited to the physical location of the work. Other important factors are the level of the administrative support required, the nature of the facilities or other resources employed, the scientific disciplines or technical skills involved, the organizational arrangements used, or any combination thereof. Where a particular segment of Government research is performed within an environment which appears to generate a significantly different level of indirect costs, provision should be made for a separate indirect cost pool applicable to such work. The separate indirect cost pool should be developed during the course of the regular distribution process, and the separate indirect cost rate resulting therefrom should be utilized provided it is determined that (1) such indirect cost rate differs significantly from that which would have obtained under a. above and (2) the volume of research work to which such rate would apply is material in relation to other Government research at the institution.

2. *The distribution base.*—Indirect costs allocated to organized research should be distributed to applicable research agreements on the basis of direct salaries and wages. For this purpose, an indirect cost rate should be determined for each of the separate indirect cost pools developed pursuant to section G.1. The rate in each case should be stated as the percentage which the amount of the particular indirect cost pool is of the total direct salaries and wages of all research agreements identified with such pool. For the purpose of establishing an indirect cost rate, direct salaries and wages may include that portion contributed to the research by the institution for cost sharing or other purposes. Bases other than salaries and wages may be used provided it can be demontsrated that they produce more equitable results.

3. *Negotiated lump sum for indirect costs.*—A negotiated fixed amount in lieu of indirect costs may be appropriate for self-contained, off-campus, or primarily subcontracted research activities where the benefits derived from an institution's indirect services cannot be readily determined. Such amount negotiated in lieu of indirect costs will be treated as an offset to total indirect expenses before apportionment to instruction, organized research, and other institutional activities. The base on which such remaining expenses are allocated should be appropriately adjusted.

4. *Predetermined fixed rates for indirect costs.*—Public Law 87-638 (76 Stat. 437) authorizes the use of predetermined fixed rates in determining the indirect costs applicable under research agreements with educational institutions. The stated objectives of the law are to simplify the administration of cost-type research and development contracts (including grants) with educational institutions, to facilitate the preparation of their budgets, and to permit more expeditious closeout of such contracts when the work is completed. In view of the potential advantages offered by this procedure, consideration should be given to the negotiation of predetermined fixed rates for indirect costs in those situations where the cost experience and other pertinent facts available are deemed sufficient to enable the parties involved to reach an informed judgment as to the probable level of indirect costs during the ensuing accounting period.

5. *Negotiated fixed rates and carryforward provisions.*—When a fixed rate is negotiated in advance for a fiscal year (or other time period), the over- or under-recovery for that year may be included as an adjustment to the indirect cost for the next rate negotiation. When the rate is negotiated before the carryforward adjustment is determined due to the delay in audit, the carryforward may be applied to the next subsequent rate negotiation. When such adjustments are to be made, each fixed rate negotiated in advance for a given period will be computed by applying the expected indirect costs allocable to Government research for the forecast period plus or minus the carryforward adjustment (over- or under-recovery) from the prior period, to the forecast distribution base. Unrecovered amounts under lump-sum agreements or cost-sharing provisions of prior years shall not be carried forward for consideration in the new rate negotiation. There must, however, be an advance understanding in each case between the institution and the cognizant Federal agency as to whether these differences will be considered in the rate negotiation rather than making the determination after the differences are known. Further, institutions electing to use this carryforward provision may not subsequently change without prior approval of the cognizant Federal agency. In the event that an institution returns to a postdetermined rate, any over- or under-recovery during the period in which negotiated fixed rates and carryforward provisions were followed will be included in the subsequent postdetermined rates. Where multiple rates are used, the same procedure will be applicable for determining each rate. This procedure also applies to rates established for grants and contracts for training and other educational services, but does not apply to cost-type research agreements covering work performed in wholly or partially Government-owned facilities.

H. *Simplified method for small institutions.*—1. *General.*—a. Where the total direct cost of all federally supported work under research and educational service agreements at an institution does not exceed $1 million in a fiscal year (excluding direct payments by the institution to participants under educational service agreements for stipends, support, and similar costs requiring little, if any, indirect cost support), the use of the abbreviated procedure described in 2. below may be used in determining allowable indirect costs. Under this abbreviated procedure, the institution's most recent annual financial report and immediately available supporting information, with salaries and wages segregated from other costs, will be utilized as a basis for determining the indirect cost rate applicable both to federally supported research and educational service agreements.

b. The rigid formula approach provided under this abbreviated procedure should not be used where it produces results which appear inequitable to the Government or the institution. In any such case, indirect costs should be determined through use of the regular procedure.

2. *Abbreviated procedure.*—a. Establish the total amount of salaries and wages paid to all employees of the institution.

b. Establish an indirect cost pool consisting of the expenditures (exclusive of capital items and other costs specifically identified as unallowable) which customarily are classified under the following titles or their equivalents:

(1) General administration and general expenses (exclusive of costs of student administration and services, student aid, student activities, and scholarships).

(2) Operation and maintenance of physical plant.

(3) Library.

(4) Department administration expenses, which will be computed as 20 percent of the salaries and expenses of deans and heads of departments.

In those cases where expenditures classified under 2.b.(1) and 2.b.(2) have previously been allocated to other institutional activities, they may be included in the indirect cost pool. The total amount of salaries and wages included in the indirect cost pool must be separately identified.

c. Establish a salary and wage distribution base, determined by deducting from the total of salaries and wages as established under 2.a. the amount of salaries and wages included under 2.b.

d. Establish the indirect cost rate, determined by dividing the amount in the indirect cost pool 2.b. by the amount of the distribution base 2.c.

e. Apply the indirect cost rate established to direct salaries and wages for individual agreements to determine the amount of indirect costs allocable to such agreements.

J. *General standards for selected items of cost.*—Sections J.1. through J.45. provide standards to be applied in establishing the allowability of certain items involved in determining cost. These standards should apply irrespective of whether a particular item of cost is properly treated as direct cost or indirect cost. Failure to mention a particular item of cost in the standards is not intended to imply that it is either allowable or unallowable; rather determination as to allowability in each case should be based on the treatment or standards provided for similar or related items of cost. In case of discrepancy between the provisions of a specific research agreement and the applicable standards provided, the provisions of the research agreement should govern.

1. *Advertising costs.*—The term advertising costs means the costs of advertising media and corollary administrative costs. Advertising media include magazines, newspapers, radio and television programs, direct mail, exhibits, and the like. The only advertising costs allowable are those which are solely for (a) the recruitment of personnel required for the performance by the institution of obligations arising under the research agreement, when considered in conjunction with all other recruitment costs, as set forth in J.32.; (b) the procurement of scarce items for the performance of the research agreement; or (c) the disposal of scrap or surplus materials acquired in the performance of the research agreement. Cost of this nature, if incurred for more than one research agreement or for both research agreement work and other work of the institution, are allowable to the extent that the principles in sections D and E are observed.

2. *Bad debts.*—Any losses, whether actual or estimated arising from uncollectible accounts and other claims, related collections costs, and related legal costs, are unallowable.

3. *Capital expenditures.*—The costs of equipment, buildings, and repairs which materially increase the value or useful life of buildings or equipment, are unallowable except as provided for in the research agreement. Government funds shall not be used for the acquisition of land, or any interest therein, except with the specific prior approval of the sponsoring agency.

4. *Civil defense costs.*—Civil defense costs are those incurred in planning for, and the protection of life and property against, the possible effects of enemy attack. Reasonable costs of civil defense measures (including costs in excess of normal plant protection costs, first aid training and supplies, firefighting training, posting of additional exit notices and directions, and other approved civil defense measures) undertaken on the institution's premises pursuant to suggestions or requirements of civil defense authorities are allowable when distributed to all activities of the institution. Capital expenditures for civil defense purposes will not be allowed, but a use allowance or depreciation may be permitted in accordance with provisions set forth in section J.10. Costs of local civil defense projects not on the institution's premises are unallowable.

5. *Commencement and convocation costs.*—Costs incurred for commencements and convocations apply only to instruction and therefore are not allocable to research agreements, either as direct costs or indirect costs.

6. *Communication costs.*—Costs incurred for telephone services, local and long distance telephone calls, telegrams, radiograms, postage and the like, are allowable.

7. *Compensation for personal services.*—a. *General.*—Compensation for personal services covers all remuneration paid currently or accrued to the institution for services of employees rendered during the period of performance under Government research agreements. Such remuneration includes salaries, wages, staff benefits (see section J.39), and pension plan costs (see section J.23). The costs of such remuneration are allowable to the extent that the total compensation to individual employees is reasonable for the services rendered and conforms to the established policy of the institution consistently applied, and provided that the charges for work performed directly on Government research agreements and for other work allocable as indirect costs to organized research are determined and supported as hereinafter provided.

b. *Payroll distribution.*—Amounts charged to organized research for personal services, except stipulated salary support, regardless of whether treated as direct costs or allocated as indirect costs, will be based on institutional payrolls which have been approved and documented in accordance with generally accepted institutional practices. Support for direct and indirect allocations of personal service costs to: (1) Instruction, (2) organized research, and (3) indirect activities as defined in section E.1., or (4) other institutional activities as defined in section B.4., will be provided as described in c., d., e., and f., below.

c. *Stipulated salary support.*—As an alternative to payroll distribution, stipulated salary support amounts may be provided in the research agreement for professorial staff, any part of whose compensation is chargeable to Government-sponored research. Stipulated salary support may also be provided for any other professionals who are engaged part time in sponsored research and part time in other work. The stipulated salary support for an individual will be determined by the Government and the educational institution during the proposal and award process on the basis of considered judgment as to the monetary value of the contribution which the individual is expected to make to the research project. This judgment will take into account any cost sharing by the institution and such other factors as the extent of the investigator's planned participation in the project and his ability to perform as planned in the light of his other commitments. It will be necessary for those who review research proposals to obtain information on the total academic year salary of the faculty members involved; the other research projects or proposals for which salary is allocated; and any other duties they may have such as teaching assignments, administrative assignments, number of graduate students for which they are responsible, or other institutional activities. Stipulated amounts for an individual must not per se result in increasing his official salary from the institution.

d. *Direct charges for personal services under payroll distribution.*—The direct cost charged to organized research for the personal services of professorial and professional staff, exclusive of those whose salaries are stipulated in the research agreement, will be based on institutional payroll systems. Such institutional payroll systems must be supported by either: (1) An adequate appointment and workload distribution system accompanied by monthly reviews performed by responsible officials and a reporting of any significant changes in workload distribution of each professor or professional staff member, or (2) a monthly after-the-fact certification system which will require the individual investigators, deans, departmental chairmen or supervisors having first-hand knowledge of the services performed on each research agreement to report the distribution of effort. Reported changes will be incorporated during the accounting period into the payroll distribution system and into the accounting records. Direct charges for salaries and wages of nonprofessionals will be supported by time and attendance and payroll distribution records.

e. *Direct charges for personal services under stipulated salaries.*—The amounts stipulated for salary support will be treated as direct costs. The stipulated salary for the academic year will be prorated equally over the duration of the grant or contract period during the academic year, unless other arrangements have been made in the grant or contract instrument. No time or effort reporting will be required to support these amounts. Special provision for summer salaries, or for a particular "off-period" if other than summer, will be required. The research agreements will state that any research covered by summer salary support must be carried out during the summer, not during the academic year, and at locations approved in advance in writing by the granting agency. The certification required in section K will attest to this requirement as well as all others in a given research agreement. Stipulated salary support remains fixed during the funding period of the grant or contract and will be costed at the rate described above unless there is a significant change in performance. For example, a significant change in performance would exist if the faculty member: (1) Was ill for an extended period, (2) took sabbatical leave to devote effort to duties unrelated to his research, or (3) was required to increase substantially his teaching assignments, administrative duties, or responsibility for more research projects. In the latter event, it will be the responsibility of the educational institution to reduce the charges to the research agreement proportionately or seek an appropriate amendment. In the case of those covered by stipulated salary support, the auditors are no longer required to review the precise accuracy of time or effort devoted to research projects. Rather, their reviews should include steps to determine on a sample basis that an institution is not reimbursed for more than 100 percent of each faculty member's salary and that the portion of each faculty member's salary charged to Government-sponsored research is reasonable in view of his university workload and other commitments. The stipulated salary method may also be agreed upon for that portion of a professional's salary that represents cost sharing by the institution.

f. *Indirect personal services costs.*—Allowable indirect personal services costs will be supported by the educational institution's accounting system maintained in accordance with generally accepted institutional practices. Where a comprehensive accounting system does not exist, the institution should make periodic surveys no less frequently than annually to support the indirect personal services costs for inclusion in the overhead pool. Such supporting documentation must be retained for subsequent review by Government officials.

g. *General guidance for charging personal services.*—Budget estimates on a monthly, quarterly, semester, or yearly basis do not qualify as support for charges to federally sponsored research projects and should not be used unless confirmed after the fact. Charges to research agreements may include reasonable amounts for activities contributing and intimately related to work under the agreement, such as preparing and delivering special lectures about specific aspects of the ongoing research, writing research reports and articles, participating in appropriate research seminars, consulting with colleagues and graduate students with respect to related research, and attending appropriate scientific meetings and conferences. In no case should charges be made to federally sponsored research projects for lecturing or preparing for formal courses listed in the catalog and offered for degree credit, or for committee or administrative work related to university business.

h. *Nonuniversity professional activities.*—A university must not alter or waive university-wide policies and practices dealing with the permissible extent of professional services over and above those traditionally performed without extra university compensation, unless such arrangements are specifically authorized by the sponsoring agency. Where university-wide policies do not adequately define the permissible extent of consultantships or other nonuniversity activities undertaken for extra pay, the Government may require that the effort of professional staff working under research agreements be allocated as between (1) university activities and (2) nonuniversity professional activities. If the sponsoring agency should consider the extent of nonuniversity professional effort excessive, appropriate arrangements governing compensation will be negotiated on a case-by-case basis.

i. *Salary rates for academic year.*—Charges for work performed on Government research by faculty members during the academic year will be based on the individual faculty member's regular compensation for the continuous period which, under the practice of the institution concerned, constitutes the basis of his salary. Charges for work performed on research agreements during all or any portion of such period would be allowable at the base salary rate. In no event will the charge to research agreements, irrespective of the basis of computation, exceed the proportionate share of the base salary for that period, and any extra compensation above the base salary for work on Government research during such period would be unallowable. This principle applies to all members of the faculty at an institution. Since intra-university consulting is assumed to be undertaken as a university obligation requiring no compensation in addition to full-time base salary, the principle also applies to those who function as consultants or otherwise contribute to a research agreement conducted by another faculty member of the same institution. However, in unusual cases where consultation is across departmental lines or involves a separate or remote operation, and the work performed by the consultant is in addition to his regular departmental load, any charges for such work representing extra compensation above the base salary are allowable provided such consulting arrangement is specifically provided for in the research agreement or approved in writing by the sponsoring agency.

j. *Salary rates for periods outside the academic year.*—Charges for work performed by faculty members on Government research during the summer months or other periods not included in the base salary period will be determined for each faculty member at a monthly rate not in excess of that which would be applicable under his base salary and will be limited to charges made in accordance with other subsections of J.7.

k. *Salary rates for part-time faculty.*—Charges for work performed on Government research by faculty members having only part-time appointments for teaching will be determined at a rate not in excess of that for which he is regularly paid for his part-time teaching assignments. Example: An institution pays $5,000 to a faculty member for half-time teaching during the academic year. He devoted one-half of his remaining time (25 percent of his total available time) to Government research. Thus his additional compensation, chargeable by the institution to Government research agreements, would be one-half of $5,000 or $2,500.

8. *Contingency provisions.*—Contributions to a contingency reserve or any similar provision made for events the occurrence of which cannot be foretold with certainty as to time, intensity, or with an assurance of their happening, are unallowable.

9. *Deans of faculty and graduate schools.*—The salaries and expenses of deans of faculty and graduate schools, or their equivalents, and their staffs, are allowable.

10. *Depreciation and use allowances.*—a. Institutions may be compensated for the use of buildings, capital improvements, and usable equipment on hand through use allowances or depreciation. Use allowances are the means of providing such compensation when depreciation or other equivalent costs are not considered. However, a combination of the two methods may not be used in connection with a single class of fixed assets.

b. Due consideration will be given to Government-furnished facilities utilized by the institution when computing use allowances and/or depreciation if the Government-furnished facilities are material in amount. Computation of the use allowance and/or depreciation will exclude both the cost or any portion of the cost of buildings and equipment borne by or donated by the Federal Government, irrespective of where title was originally vested or where it presently resides and, secondly, the cost of grounds. Capital expenditures for land improvements (paved areas, fences, streets, sidewalks, utility conduits and similar improvements not already included in the cost of buildings) are allowable provided the systematic amortization of such capital expenditures has been provided, based on reasonable determinations of the probable useful lives of the individual items involved, and the share allocated to organized research is developed from the amount thus amortized for the base period involved. Amortization methods once used should not be changed for a given building or equipment unless approved in advance by the cognizant Federal agency.

c. Where the use allowance method is followed, the use allowance for buildings and improvements will be computed at an annual rate not exceeding 2 percent of acquisition cost. The use allowance for equipment will be computed at an annual rate not exceeding $6\frac{2}{3}$ percent of acquisition cost of usable and needed equipment in those cases where the institution maintains current records with respect to such equipment on hand. Where the institution's records reflect only the cost (actual or estimated) of the original complement of equipment, the use allowance will be computed at an annual rate not exceeding 10 percent of such cost. Original complement for this purpose means the complement of equipment initially placed in buildings to perform the functions currently being performed in such buildings; however, where a permanent change in the function of a building takes place, a redetermination of the original complement of equipment may be made at that time to establish a new original complement. In those cases where no equipment records are maintained, the institution will justify a reasonable estimate of the acquisition cost of usable and needed equipment which may be used to compute the use allowance at an annual rate not exceeding $6\frac{2}{3}$ percent of such estimate.

d. Where the depreciation method is followed, adequate property record must be maintained and periodic inventory (a statistical sampling basis is acceptable) must be taken to insure that properties for which depreciation is charged do exist and are needed. The period of useful service (service life) established in each case for usable capital assets must be determined on a realistic basis which takes into consideration such factors as type of construction, nature of the equipment used, technological developments in the particular research area, and the renewal and replacement policies followed for the individual items or classes of assets involved. Where the depreciation method is introduced for application to assets acquired in prior years, the annual charges therefrom must not exceed the amounts that would have resulted had the depreciation method been in effect from the date of acquisition of such assets.

e. Where an institution elects to go on a depreciation basis for a particular class of assets, no depreciation, rental or use charge may be allowed on any such assets that, under d above, would be viewed as fully depreciated: *Provided, however*, That reasonable use charges may be negotiated for any such assets if warranted after taking into consideration the cost of the facility or item involved, the estimated useful life remaining at time of negotiation, the actual replacement policy followed in the light of service lives used for calculating depreciation, the effect of any increased maintenance charges or decreased efficiency due to age, and any other factors pertinent to the utilization of the facility or item for the purpose contemplated.

11. *Employee morale, health, and welfare costs and credits.*—The costs of house publications, health or first-aid clinics and/or infirmaries, recreational activities, employees' counseling services, and other expenses incurred in accordance with the institution's established practice or custom for the improvement of working conditions, employer-employee relations, employee morale, and employee performance, are allowable. Such costs will be equitably apportioned to all activities of the institution. Income generated from any of these activities will be credited to the cost thereof unless such income has been irrevocably set over to employee welfare organizations.

12. *Entertainment costs.*—Costs incurred for amusement, social activities, entertainment, and any items relating thereto, such as meals, lodging, rentals, transportation, and gratuities, are unallowable.

13. *Equipment and other facilities.*—The costs of permanent equipment or other facilities are allowable where such purchases are approved by the sponsoring agency concerned or provided for by the terms of the research agreement. Total expenditures for permanent equipment may not exceed 125 percent of the amount allotted for the permanent equipment category by the sponsoring agency (through an approved budget or other document) except with approval. The term "permanent equipment" shall mean an item of property which has an acquisition cost of $200 or more and has an expected service life of 1 year or more.

a. *General purpose equipment.*—Approval must be obtained to acquire with Government funds any general purpose permanent equipment, i.e., any items which are usable for activities of the institution other than research, such as office equipment and furnishings, air conditioning, reproduction or printing equipment, motor vehicles, etc., or any automatic data processing equipment.

b. *Research equipment.*—Approval must be obtained to acquire with Government funds any item of permanent research equipment costing $1,000 or more.

14. *Fines and penalties.*—Costs resulting from violations of, or failure of the institution to comply with, Federal, State, and local laws and regulations are unallowable except when incurred as a result of compliance with specific provisions of the research agreement, or instructions in writing from the contracting officer.

15. *Insurance and indemnification.*—a. Costs of insurance required or approved, and maintained, pursuant to the research agreement, are allowable.

b. Costs of other insurance maintained by the institution in connection with the general conduct of its activities, are allowable subject to the following limitations: (1) Types and extent and cost of coverage must be in accordance with sound institutional practice; (2) costs of insurance or of any contributions to any reserve covering the risk of loss of or damage to Government-owned property are unallowable except to the extent that the Government has specifically required or approved such costs; and (3) costs of insurance on the lives of officers or trustees are unallowable except where such insurance is part of an employee plan which is not unduly restricted.

c. Contributions to a reserve for an approved self-insurance program are allowable to the extent that the types of coverage, extent of coverage, and the rates and premiums would have been allowed had insurance been purchased to cover the risks.

d. Actual losses which could have been covered by permissible insurance (through an approved self-insurance program or otherwise) are unallowable unless expressly provided for in the research agreement, except that costs incurred because of losses not covered under existing deductible clauses for insurance coverage provided in keeping with sound management practice as well as minor losses not covered by insurance, such as spoilage, breakage, and disappearance of small hand tools, which occur in the ordinary course of operations, are allowable.

e. Indemnification includes securing the institution against liabilities to third persons and other losses not compensated by insurance or otherwise. The Government is obligated to indemnify the institution only to the extent expressly provided for in the research agreement, except as provided in d above.

16. *Interest, fundraising, and investment management costs.*—a. Costs incurred for interest on borrowed capital or temporary use of endowment funds, however represented, are unallowable.

b. Costs of organized fundraising, including financial campaigns, endowment drives, solicitation of gifts and bequests, and similar expenses incurred solely to raise capital or obtain contributions, are not allowable under Government research agreements.

c. Costs of investment counsel and staff and similar expenses incurred solely to enhance income from investments are not allowable under Government research agreements.

d. Costs related to the physical custody and control of moneys and securities are allowable.

17. *Labor relations costs.*—Costs incurred in maintaining satisfactory relations between the institution and its employees, including costs of labor management committees, employees' publications, and other related activities, are allowable.

18. *Losses on other research agreements or contracts.*—Any excess of costs over income under any other research agreement or contract of any nature is unallowable. This includes, but is not limited to, the institution's contributed portion by reason of cost-sharing agreements or any under-recoveries through negotiation of flat amounts for indirect costs.

19. *Maintenance and repair costs.*—Costs incurred for necessary maintenance, repair or upkeep of property (including Government property unless otherwise provided for) which neither add to the permanent value of the property nor appreciably prolong its intended life but keep it in an efficient operating condition, are allowable.

20. *Material costs.*—Costs incurred for purchased materials, supplies, and fabricated parts directly or indirectly related to the research agreement, are allowable. Purchases made specifically for the research agreement should be charged thereto at their actual prices after deducting all cash discounts, trade discounts, rebates, and allowances received by the institution. Withdrawals from general stores or stockrooms should be charged at their cost under any recognized method of pricing stores withdrawals conforming to sound accounting practices consistently followed by the institution. Incoming transportation charges are a proper part of material cost. Direct material cost should include only the materials and supplies actually used for the performance of the research agreement, and due credit should be given for any excess materials retained, or returned to vendors. Due credit should be given for all proceeds or value received for any scrap resulting from work under the research agreement. Where Government-donated or furnished material is used in performing the research agreement, such material will be used without charge.

21. *Memberships, subscriptions and professional activity costs.*—a. Costs of the institution's membership in civic, business, technical, and professional organizations are allowable.

b. Costs of the institution's subscriptions to civic, business, professional, and technical periodicals are allowable.

c. Costs of meetings and conferences, when the primary purpose is the dissemination of technical information, are allowable. This includes costs of meals, transportation, rental of facilities, and other items incidental to such meetings or conferences.

22. *Patent costs.*—Costs of preparing disclosures, reports, and other documents required by the research agreement and of searching the art to the extent necessary to make such invention disclosures, are allowable. In accordance with the clauses of the research agreement relating to patents, costs of preparing documents and any other patent costs, in connection with the filing of a patent application where title is conveyed to the Government, are allowable (see also section J.33).

23. *Pension plan costs.*—Costs of the institution's pension plan which are incurred in accordance with the established policies of the institution are allowable, provided such policies meet the test of reasonableness and the methods of cost allocation are not discriminatory, and provided appropriate adjustments are made for credits or gains arising out of normal and abnormal employee turnover or any other contingencies that can result in forfeitures by employees which inure to the benefit of the institution.

24. *Plant security costs.*—Necessary expenses incurred to comply with Government security requirements, including wages, uniforms and equipment of personnel engaged in plant protection, are allowable.

25. *Preresearch agreement costs.*—Costs incurred prior to the effective date of the research agreement, whether or not they would have been allowable thereunder if incurred after such date, are unallowable unless specifically set forth and identified in the research agreement.

26. *Professional services costs.*—a. Costs of professional services rendered by the members of a particular profession who are not employees of the institution are allowable, subject to b. and c. below, when reasonable in relation to the services rendered and when not contingent upon recovery of the costs from the Government. Retainer fees to be allowable must be reasonably supported by evidence of services rendered.

b. Factors to be considered in determining the allowability of costs in a particular case include: (1) The past pattern of such costs, particularly in the years prior to the award of Government research agreements; (2) the impact of Government research agreements on the institution's total activity; (3) the nature and scope of managerial services expected of the institution's own organizations; and (4) whether the proportion of Government work to the institution's total activity is such as to influence the institution in favor of incurring the cost, particularly where the services rendered are not of a continuing nature and have little relationship to work under Government research agreements.

c. Costs of legal, accounting, and consulting services, and related costs, incurred in connection with organization and reorganization or the prosecution of claims against the Government, are unallowable. Costs of legal, accounting and consulting services, and related costs, incurred in connection with patent infringement litigation, are unallowable unless otherwise provided for in the research agreement.

27. *Profits and losses on disposition of plant, equipment, or other capital assets.*—Profits or losses of any nature arising from the sale or exchange of plant, equipment, or other capital assets, including sale or exchange of either short- or long-term investments, shall not be considered in computing research agreement costs.

28. *Proposal costs.*—Proposal costs are the costs of preparing bids or proposals on potential Government and non-Government research agreements or projects, including the development of engineering data and cost data necessary to support the institution's bids or proposals. Proposal costs of the current accounting period of both successful and unsuccessful bids and proposals normally should be treated as indirect costs and allocated currently to all activities of the institution, and no proposal costs of past accounting periods will be allocable in the current period to the Government research agreement. However, the institution's established practices may be to treat proposal costs by some other recognized method. Regardless of the method used, the results obtained may be accepted only if found to be reasonable and equitable.

29. *Public information services costs.*—Costs of news releases pertaining to specific research or scientific accomplishment are unallowable unless specifically authorized by the sponsoring agency.

30. *Rearrangement and alteration costs.*—Costs incurred for ordinary or normal rearrangement and alteration of facilities are allowable. Special arrangement and alteration costs incurred specifically for the project are allowable when such work has been approved in advance by the sponsoring agency concerned.

31. *Reconversion costs.*—Costs incurred in the restoration or rehabilitation of the institution's facilities to approximately the same condition existing immediately prior to commencement of Government research agreement work, fair wear and tear excepted, are allowable.

32. *Recruiting costs.*—a. Subject to b., c., and d. below: *And provided*, That the size of the staff recruited and maintained is in keeping with workload requirements, costs of "help wanted" advertising, operating costs of an employment office necessary to secure and maintain an adequate staff, costs of operating an aptitude and educational testing program, travel costs of employees while engaged in recruiting personnel, travel costs of applicants for interviews for prospective employment, and relocation costs incurred incident to recruitment of new employees, are allowable to the extent that such costs are incurred pursuant to a well managed recruitment program. Where the institution uses employment agencies, costs not in excess of standard commercial rates for such services are allowable.

b. In publications, costs of help wanted advertising that includes color, includes advertising material for other than recruitment purposes, or is excessive in size (taking into consideration recruitment purposes for which intended and normal institutional practices in this respect), are unallowable.

c. Costs of help wanted advertising, special emoluments, fringe benefits, and salary allowances incurred to attract professional personnel from other institutions that do not meet the test of reasonableness or do not conform with the established practices of the institution, are unallowable.

d. Where relocation costs incurred incident to recruitment of a new employee have been allowed either as an allocable direct or indirect cost, and the newly hired employee resigns for reasons within his control within 12 months after hire, the institution will be required to refund or credit such relocation costs to the Government.

33. *Royalties and other costs for use of patents.*—Royalties on a patent or amortization of the cost of acquiring a patent or invention or rights thereto, necessary for the proper performance of the research agreement and applicable to tasks or processes thereunder, are allowable unless the Government has a license or the right to free use of the patent, the patent has been adjudicated to be invalid or has been administratively determined to be invalid, the patent is considered to be unenforceable, or the patent has expired.

34. *Sabbatical leave costs.*—Costs of leave of absence to employees for performance of graduate work or sabbatical study, travel, or research are allowable provided the institu-

tion has a uniform policy on sabbatical leave for persons engaged in instruction and persons engaged in research. Such costs will be allocated on an equitable basis among all appertaining activities of the institution. Where sabbatical leave is included in fringe benefits for which a cost is determined for assessment as a direct charge, the aggregate amount of such assessments applicable to all work of the institution during the base period must be reasonable in relation to the institution's actual experience under its sabbatical leave policy.

35. *Scholarships and student aid costs.*—Costs of scholarships, fellowships and other forms of student aid apply only to instruction and therefore are not allocable to research agreements, either as direct costs or indirect costs. However, in the case of students actually engaged in work under research agreements, any tuition remissions to such students for work performed are allocable to such research agreements provided consistent treatment is accorded such costs. (See section J. 39.)

36. *Severance pay.*—a. Severance pay is compensation in addition to regular salaries and wages which is paid by an institution to employees whose services are being terminated. Costs of severance pay are allowable only to the extent that such payments are required by law, by employer-employee agreement, by established policy that constitutes in effect an implied agreement on the institution's part, or by circumstances of the particular employment.

b. Severance payments that are due to normal, recurring turnover and which otherwise meet the condtions of a. above may be allowed provided the actual costs of such severance payments are regarded as expenses applicable to the current fiscal year and are equitably distributed among the institution's activities during that period.

c. Severance payments that are due to abnormal or mass terminations are of such conjectural nature that allowability must be determined on a case-by-case basis. However, the Government recognizes its obligation to participate, to the extent of its fair share, in any specific payment.

37. *Specialized service facilities operated by institution.*—a. The costs, including amortization by generally accepted accounting practice, of institutional services involving the use of highly complex and specialized facilities such as electronic computers, in-use, wind tunnels, and reactors are allowable provided the charges therefor meet the conditions of b. or c. below, and otherwise take into account any items of income or Federal financing that qualify as applicable credits under section C.5.

b. The costs of such institutional services normally will be charged directly to applicable research agreements based on actual usage or occupancy of the facilities on the basis of a schedule of rates that (1) is designed to recover only aggregate costs of providing such services over a long term agreed upon in advance by the cognizant Federal agency on an individual basis and (2) is applied on a nondiscriminatory basis as between organized research and other work of the institution, including usage by the institution for internal purposes. Commercial or accommodation sales of computer services will be charged at not less than the above rates; however, if the rates charged for these services are greater, the total amount of charges above the scheduled rates when significant may be considered in revising the schedule of rates. Further, within the constraints of this paragraph, it is not necessary that the rates charged for services be equal to the cost of providing those services during any 1 fiscal year.

c. In the absence of an acceptable arrangement for direct costing as provided in b. above, the costs incurred for such institutional services may be assigned to research agreements as indirect costs, provided the methods used achieve substantially the same results. Such arrangements should be worked out in coordination with the cognizant Federal agency in order to assure equitable distribution of the indirect costs.

38. *Special services costs.*—Costs incurred for general public relations activities, catalogs, alumni activities, and similar services, are unallowable.

39. *Staff benefits.*—a. Staff benefits in the form of regular compensation paid to employees during periods of authorized absences from the job, such as for annual leave, sick leave, military leave, and the like, are allowable provided such costs are absorbed by all institutional activities, including organized research, in proportion to the relative amount of time or effort actually devoted to each. (See sec. J.34. for treatment of sabbatical leave.)

b. Staff benefits in the form of employer contributions or expenses for social security, employee insurance, workmen's compensation insurance, the pension plan (see sec. J.23.), tuition or remission of tuition for individual employees or their families (see sec. J.35.), and the like, are allowable provided such benefits are granted in accordance with established institutional policies, and provided such contributions and other expenses, whether treated as indirect costs or as an increment of direct labor costs, are distributed to particular research agreements and other activities in a manner consistent with the pattern of benefits accruing to the individuals or groups of employees whose salaries and wages are chargeable to such research agreements and other activities.

40. *Student activity costs.*—Costs incurred for intramural activities, student publications, student clubs, and other student activities, apply only to instruction and therefore are not allocable to research agreements, either as direct costs or indirect costs.

41. *Student services costs.*—Costs of the deans of students, administration of student affairs, registrar, placement offices, student advisers, student health, and infirmary services, and such other activities as are identifiable with student services apply only to instruction and therefore are not allocable to research agreements, either as direct costs or indirect costs. However, in the case of students actually engaged in work under research agreements, a proportion of student services costs measured by the relationship between hours of work by students on such research work and total student hours including all research time may be allowed as a part of research administration expenses.

42. *Taxes.*—a. In general, taxes which the institution is required to pay and which are paid or accrued in accordance with generally accepted accounting principles, and payments made to local governments in lieu of taxes which are commensurate with the local government services received are allowable, except for (1) taxes from which exemptions are available to the institution directly or which are available to the institution based on an exemption afforded the Government and in the latter case when the sponsoring agency makes available the necessary exemption certificates, and (2) special assessments on land which represent capital improvements.

b. Any refund of taxes, interest, or penalties, and any payment to the institution of interest thereon, attributable to taxes, interest, or penalties which were allowed as research agreement costs, will be credited or paid to the Government in the manner directed by the Government provided any interest actually paid or credited to an institution incident to a refund of tax, interest and penalty will be paid or credited to the Government only to the extent that such interest accrued over the period during which the institution had been reimbursed by the Government for the taxes, interest, and penalties.

43. *Transportation costs.*—Costs incurred for freight, express, cartage, postage, and other transportation services relating either to goods purchased, in process, or delivered, are allowable. When such costs can readily be identified with the items involved, they may be charged directly as transportation costs or added to the cost of such items. Where identification with the materials received cannot readily be made, inbound transportation costs may be charged to the appropriate indirect cost accounts if the institution follows a consistent, equitable procedure in this respect. Outbound freight, if reimbursable under the terms of the research agreement, should be treated as a direct cost.

44. *Travel costs.*—a. Travel costs are the expenses for transportation, lodging, subsistence, and related items incurred by employees who are in travel status on official business of the institution. Such costs may be charged on an actual basis, on a per diem or mileage basis in lieu of actual costs incurred, or on a combination of the two, provided the method used is applied to an entire trip and not to selected days of the trip, and results in charges consistent with those normally allowed by the institution in its regular operations.

b. Travel costs are allowable subject to c., d., e., and f., below, when they are directly attributable to specific work under a research agreement or are incurred in the normal course of administration of the institution or a department or research program thereof.

c. The difference in cost between first-class air accommodations and less than first-class air accommodations is unallowable except when less than first-class air accommodations are not reasonably available to meet necessary mission requirements, such as where less than first-class accommodations would (1) require circuitous routing, (2) require travel during unreasonable hours, (3) greatly increase the duration of the flight, (4) result in additional costs which would offset the transportation savings, or (5) offer accommodations which are not reasonably adequate for the medical needs of the traveler.

d. Costs of personnel movements of a special or mass nature are allowable only when authorized or approved in writing by the sponsoring agency or its authorized representative.

e. Foreign travel costs are allowable only when the travel has received specific prior approval. Each separate foreign trip must be specifically approved. For purposes of this provision, foreign travel is defined as "any travel outside of Canada and the United States and its territories and possessions."

f. Expenditures for domestic travel may not exceed $500, or 125 percent of the amount allotted for such travel by the sponsoring agency, whichever is greater, except with approval.

45. *Termination costs applicable to research agreements.*—a. Termination of research agreements generally gives rise to the incurrence of costs or to the need for special treatment of costs, which would not have arisen had the agreement not been terminated. Items peculiar to termination are set forth below. They are to be used in conjunction with all other provisions of this appendix in the case of termination.

b. The cost of common items of materials reasonably usable on the institution's other work will not be allowable unless the institution submits evidence that it could not retain such items at cost without sustaining a loss. In deciding whether such items are reasonably usable on other work of the institution, consideration should be given to the institution's plans and orders for current and scheduled work. Contemporaneous purchases of common items by the institution will be regarded as evidence that such items are reasonably usable on the institution's other work. Any acceptance of common items as allowable to the terminated portion of the agreement should be limited to the extent that the quantities of such items on hand, in transit, and on order are in excess of the reasonable quantitative requirements of other work.

c. If in a particular case, despite all reasonable efforts by the institution, certain costs cannot be discontinued immediately after the effective date of termination, such costs are generally allowable within the limitations set forth in this appendix, except that any such costs continuing after termination due to the negligent or willful failure of the institution to discontinue such costs will be considered unacceptable.

d. Loss of useful value of special tooling, and special machinery and equipment is generally allowable, provided (1) such special tooling, machinery, or equipment is not reasonably capable of use in the other work of the institution; (2) the interest of the government is protected by transfer of title or by other means deemed appropriate by the contracting officer or equivalent; and (3) the loss of useful value as to any one terminated agreement is limited to that portion of the acquisition cost which bears the same ratio to the total acquisition cost as the terminated portion of the agreement bears to the entire terminated agreement and other government agreements for which the special t[illegible] special machinery, or equipment was acquired.

e. Rental costs under unexpired leases are generally allowable where clearly shown to have been reasonably necessary for the performance of the terminated agreement, less the residual value of such leases, if (1) the amount of such rental claimed does not exceed the reasonable use value of the property leased for the period of the agreement and such further period as may be reasonable; and (2) the institution makes all reasonable efforts to terminate, assign, settle, or otherwise reduce the cost of such lease. There also may be included the cost of alterations of such leased property, provided such alterations were necessary for the performance of the agreement, and of reasonable restoration required by the provisions of the lease.

f. Settlement expenses including the following are generally allowable: (1) Accounting, legal, clerical, and similar costs reasonably necessary for the preparation and presentation to contracting officers or equivalent of settlement claims and supporting data with respect to the terminated portion of the agreement, and the termination and settlement of subagreements; and (2) reasonable costs for the storage, transportation, protection, and disposition of property provided by the Government or acquired or produced by the institution for the agreement.

g. Claims under subagreements, including the allocable portion of claims which are common to the agreement and to other work of the institution, are generally allowable.

K. *Certification of charges.*—To assure that expenditures for research grants and contracts are proper and in accordance with the research agreement documents and approved project budgets, the annual and/or final fiscal reports or vouchers requesting payment under research agreements will include a certification, signed by an authorized official of the university, which reads essentially as follows: "I certify that all expenditures reported (or payments requested) are for appropriate purposes and in accordance with the agreements set forth in the application and award documents."

### PART II. PRINCIPLES FOR DETERMINING COSTS APPLICABLE TO TRAINING AND OTHER EDUCATIONAL SERVICES UNDER GRANTS AND CONTRACTS WITH EDUCATIONAL INSTITUTIONS

A. *Purpose.*—This part extends the scope of part I to cover the determination of costs incurred by educational institutions under Federal grants and contracts for training and other educational services.

B. *Application.*—The Commissioner will use parts I and II of this appendix as a basis for determining allowable costs under grants and cost reimbursement type contracts with educational institutions for work performed under federally supported educational service agreements.

C. *Terminology.*—The following definitions are to be used in determining the indirect cost of federally sponsored training and other educational services under this part:

1. *Educational service agreement* means any grant or contract under which Federal financing is provided on a cost reimbursement basis for all or an agreed portion of the costs incurred for training or other educational services. Typical of the work covered by educational service agreements are summer institutes, special training programs for selected participants, professional or technical services to cooperating countries, the development and introduction of new or expanded courses, and similar instructional oriented undertakings, including special research training programs, that are separately budgeted and accounted for by the institution.

The term does not extend to (a) grants or contracts for organized research, (b) arrangements under which the Federal financing is exclusively in the form of scholarships, fellowships, traineeships, or other fixed amounts such as a cost of education allowance or the normal published tuition rates and fees of an institution, or (c) construction, facility and exclusively general resource or institutional type grants.

2. *Instruction* means all of the academic work other than organized research carried on by an institution, including the teaching of graduate and undergraduate courses, departmental research (see section B.2. of part I) and all special training or other instructional oriented projects sponsored by the Federal Government or others under educational service agreements.

D. *Student administration and services.*—In addition to the five major functional categories of indirect costs described in section F of part I, there is established an additional category under the title "Student administration and services" to embrace the following:

1. The expenses in this category are those that have been incurred for the administration of student affairs and for services to students, including expenses of such activities as deans of students, admissions, registrar, counseling and placement services, student advisers, student health and infirmary services, catalogs, and commencements and convocations. The salaries of members of the academic staff whose academic appointments or assignments involve the performance of such administrative or service work may also be included to the extent that the portion so charged is supported pursuant to section J.2. The student administration and services category also includes the staff benefit and pension plan costs applicable to the salaries and wages included therein, an appropriate share of the cost of the operation and maintenance of the physical plant, and charges representing use allowance or depreciation applicable to the buildings and equipment utilized in the performance of the functions included in this category.

2. The expenses in this category are generally applicable in their entirety to the instruction activity. They should be allocated to applicable cost objectives within the instruction activity, including educational service agreements, when such agreements reasonably benefit from these expenses. Such expenses should be allocated on the basis of population served (computed on the basis of full-time equivalents including students, faculty, and others as appropriate) or other methods which will result in an equitable distribution to cost objectives in relation to the benefits received and be consistent with guides provided in section E.2. of part I.

E. *Direct costs of educational service agreements.*—Direct costs of work performed under educational service agreements will be determined consistent with the principles set forth in section D of part I.

F. *Indirect costs of the instruction activity.*—The indirect costs of the instruction activity as a whole should include its allocated share of administrative and supportive costs determined in accordance with the principles set forth in section D above and in section F of part I. Such costs may include other items of indirect cost incurred solely for the instruction activity and not included in the general allocation of the various categories of indirect expenses. Costs incurred for the institutions by State and local governments are allowable as provided for in section C.6. of part I.

G. *Indirect costs applicable to educational service agreements.*—The individual items of indirect costs applicable to the instruction activity as a whole should be assigned to (1) educational service agreements and (2) all other instructional work through use of appropriate cost groupings, selected distribution bases, and other reasonable methods as outlined in section E.2. of part I. A single indirect pool may be used for all educational service agreements provided this results in a reasonably equitable distribution of costs among agreements in relation to indirect support services provided. However, when the level of indirect support significantly varies for work performed either on campus or off campus under a particular agreement or group of agreements, separate cost pools should be established consistent with the principles set forth in section G.1.b. of part I. Where direct charges are provided for under educational service agreements for such things as commencement fees, student fees, and tuition, the related indirect costs, through separate cost groupings, should be excluded from the indirect costs allocable to the service agreements.

H. *Indirect cost rates for educational service agreements.*—An indirect cost rate should be determined for the educational service agreement pool or pools, as established under section G above. The rate in each case should be stated as the percentage which the amount of the particular educational service agreement pool is of the total direct salaries and wages of all educational service agreements identified with such pool. Indirect costs should be distributed to individual agreements by applying the rate or rates established to direct salaries and wages for each agreement. When a fixed rate is negotiated in advance of a fiscal year, the over- or under-recovery for that year may be included as an adjustment to the indirect cost for the next rate negotiation as in sections G.4. and G.5. of part I.

J. *General standards for selected items of cost.*—The standards for selected items of cost as set forth in sections J.1. through J.46. of part I applicable to research agreements will also be applied to educational service agreements with the following modifications:

1. *Commencement and convocation costs (J.5.).*—Expenses incurred for convocations and commencements apply to the instruction activity as a whole. Such expenses are unallowable as direct costs of educational service agreements unless specifically authorized in the agreement or approved in writing by the sponsoring agency. For eligibility of allocation as indirect costs, see section D.

2. *Compensation for personal services (J.7.).*—Charges to educational service agreements for personal services will normally be determined and supported consistent with the provisions of section J.7. of part I. However, the provision for stipulated salary support will not be used for educational service agreements. Also, charges may include compensation in excess of the base salary of a faculty member for the conduct of courses outside the normal duties of such member provided that: (a) Extra charges are determined at a rate not greater than the basic salary rate of the member; (b) salary payments for such work follow practices consistently applied within the institution; and (c) specific authorization for such charges is included in the educational service agreement.

3. *Scholarships and student aid costs (J.35.).*—Expenses incurred for scholarship and student aid are unallowable as either direct costs or indirect costs of educational service agreements, unless specifically authorized in the educational service agreement or approved in writing by the sponsoring agency.

4. *Student activity costs (J.40.).*—Expenses incurred for student activities are unallowable as either direct costs or indirect costs of educational service agreements, unless specifically authorized in the educational service agreement or approved in writing by the sponsoring agency.

5. *Student services costs (J.41.).*—Expenses incurred for student services are unallowable as direct costs of educational service agreements unless specifically authorized in the agreement or approved in writing by the sponsoring agency. For eligibility of allocation as indirect costs, see section D.

(OMB Circular No. A 21.)

## APPENDIX D—COST PRINCIPLES FOR NON-PROFIT INSTITUTIONS

A. *Purpose and scope.*—1. *Objectives.*—This appendix provides principles for determining the costs applicable to grants and contracts awarded by the Commissioner and performed by non-profit organizations other than educational institutions, hospitals and State and local government organizations. These principles are confined to the subject of cost determination and make no attempt to identify the circumstances or dictate the extent of agency and institutional participation in the financing of a partcular project. The principles are designed to provide recognition of the full allocated costs of work under generally accepted accounting principles. No provision for profit or other increment above cost is provided for in these principles.

2. *Definition of non-profit institution.*—(a) A non-profit institution for purposes of this document is any corporation, foundation, trust, association, cooperative or other organization other than (i) educational institutions, (ii) hospitals, and (iii) State and local governmental agencies, bureaus or departments, which is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest, which is not organized primarily for profit and which uses all income exceeding costs to maintain, improve and/or expand its operations.

The charter or other legally binding authority for the existence of the institution must provide that no part of the net earnings, properties or other assets of the institution, on dissolution or otherwise shall inure to the benefits of any private person or individual including any member, employee, officer, director or trustee of the institution, and that, on liquidation or dissolution all properties and assets remaining after providing for all debts and obligations shall be distributed and paid over to such other fund, foundation or other organization formed and operated as a non-profit institution, as defined herein, as the board of directors or trustees may determine. Institutions which have received tax exemptions as non-profit institutions from the U.S. Internal Revenue Service shall be considered to have met the criteria of this definition.

(b) For purposes of this document, the terms non-profit and not-for-profit as they are descriptively applied to institutions shall be considered synonymous provided the requirements of 2(a) are met.

3. *Policy Guides.*—The successful application of these principles requires development of mutual understanding between representatives of nonprofit institutions and of the Federal Government as to their scope, applicability, and interpretation. It is recognized that the arrangements for agency and institutional participation in the financing of a project are properly subject to negotiation between the agency and the institution concerned in accordance with such Government-wide criteria as may be applicable, that each institution should be expected to employ sound management practice in the fulfillment of its obligation, and that each grantee or contractor organization in recognition of its own unique combination of staff, facilities, and experience should be responsible for employing whatever form of organization and management techniques as may be necessary to assure proper efficient administration.

4. *Application.*—These principles shall be applied in determining cost incurred in the performance of all grants and cost-reimbursement type contracts awarded by the Commissioner. The principles shall also apply to cost-reimbursement type contracts performed under grants and cost-reimbursement type subcontracts and shall be used as a guide in the pricing of fixed price contracts and subcontracts. The principles do not apply to construction grants or contracts.

B. *Basic considerations.*—1. *Composition of total cost.*—The total cost of a contract or grant is the sum of the allowable direct and indirect costs allocable to the grant/contract less any applicable credits. In ascertaining what constitutes costs, any generally accepted accounting method of determining or estimating costs that is equitable under the circumstances may be used.

2. *Factors affecting allowability of costs.*—Factors to be considered in determining the allowability of individual items of cost include (a) reasonableness, (b) allocability, (c) application of those generally accepted accounting principles and practices appropriate to the particular circumstances, and (d) any limitations or exclusions set forth in this document or otherwise included in the grant/contract as to types or amounts of cost items.

3. *Definition of reasonableness.*—A cost is reasonable if, in its nature or amount, it does not exceed that which would be incurred by an ordinarily prudent person in the conduct of competitive business. The question of the reasonableness of specific costs must be scrutinized with particular care in connection with institutions or separate divisions thereof which may not be subject to effective competitive restraints. What is reasonable depends upon a variety of considerations and circumstances involving both the nature and amount of the cost in question. In determining the reasonableness of a given cost, consideration shall be given to:

(a) Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the institution or the performance of the grant/contract;

(b) The restraints or requirements imposed by such factors as generally accepted sound business practices, arms-length bargaining, Federal and State laws and regulations, and grant/contract terms and specifications;

(c) The action that a prudent businessman would take in the circumstances, considering his responsibilities to the public at large, the Government, his employees, his clients, shareholders or members and the fulfillment of the purposes for which the institution was organized; and

(d) Significant deviations from the established practices of the institution which may unjustifiably increase the grant/contract costs.

4. *Definition of allocability.*—A cost is allocable if it is assignable or chargeable to a particular cost objective, such as a grant/contract, project, product, service, process, or other major activity, in accordance with the relative benefits received or other equitable relationship. Subject to the foregoing, a cost is allocable to a Government grant/contract if it:

(a) Is incurred specifically for the grant/contract;

(b) Benefits both the grant/contract and other work and can be distributed to them in reasonable proportion to the benefits received; or

(c) Is necessary to the overall operation of the institution, although a direct relationship to any particular cost objective cannot be shown.

Where an organization utilizes the standards of accounting and financial reporting for voluntary health and welfare organizations (or comparable generally accepted accounting standards peculiar to its particular organizational structure or activity) to allocate costs to nonfederally supported activities it must also use such standards to allocate costs to Federal grants/contracts.

5. *Applicable credits.*—The term applicable credits refers to those receipt or negative expenditure types of transactions which operate to offset or reduce expense items that are allocable to grants or contracts as direct or indirect costs. Typical examples of such transactions are: purchase discounts, rebates or allowances; recoveries or indemnities on losses; sales of scrap or incidental services; and adjustments of overpayments or erroneous charges. The applicable portion of any income, rebate, allowance, and other credit relating to any allowable cost, received by or accruing to the grantee/contractor shall be credited to the Government either as a cost reduction or by cash refund, as appropriate.

C. *Direct costs.*—1. A direct cost is any cost which can be identified specifically with a particular cost objective. Direct costs are not limited to items which are incorporated in the end product as material or labor. Costs identified specifically with the grant/contract are direct costs of the grant/contract and may be charged directly thereto. Costs identified specifically with other work of the institution are direct costs of that work and are not to be charged to the grant/contract either directly or indirectly. Items charged as direct cost to Government-supported projects must be charged in a uniform manner to all other work of the institution in order to preclude an overcharge to the Government as a result of the Government's participation in the indirect cost pool. Conversely, where the institution's established accounting system provides for the treatment of certain items of cost as direct costs of the institution, then the same items must be considered direct costs to Government-supported projects and may not be included in the indirect cost pool.

2. Certain types of cost, or costs associated with certain activities are not reimbursable as a charge to a grant/contract. These unallowable costs or activities are identified in section G. Even though a particular activity or cost is designated as unallowable for purposes of computing costs charged to Government work, it nonetheless must be treated as a direct cost or activity if a portion of the institution's indirect cost (as defined in section D) is properly allocable to it. The amount of indirect cost allocated must be in accordance with the principles set forth in section D.2. In general, an unallowable institutional activity shall be treated as a direct function when it (1) includes salaries of personnel, (2) occupies space, and (3) is serviced by an indirect cost grouping(s). Thus the costs associated with the following types of activities when normal or necessary to an institution's primary mission shall be treated as direct costs:

(a) Maintenance of membership rolls, subscriptions, publications and related functions.

(b) Providing services and information to members, legislative or administrative bodies or the public.

(c) Promotion, lobbying and other forms of public relations.

(d) Meetings and conferences except those held to conduct the general administration of the institution.

(e) Fund raising.

(f) Maintenance, protection and investment of special funds not used in operation of institutions.

(g) Administration of group benefits on behalf of members or clients includ[illegible]fe and hospital insurance, annuity o[illegible]ment plans, financial aid, etc.

(h) Other activities performed pr[illegible] a service to a membership, clien[illegible] public.

3. This definition shall be applie[illegible] items of cost of significant amount unless the institution demonstrates that the app[illegible] of any different current practice [illegible]ieves substantially the same results. Direct cost items of minor amount may be distributed as indirect costs as provided in section D.

D. *Indirect costs.*—1. An indirect cost is one which, because of its incurrence for common or joint objectives, is not readily subject to treatment as a direct cost. Minor direct cost items may be considered to be indirect costs for reasons of practicality. After direct costs have been determined and charged directly to the grant/contract or other work as appropriate, indirect costs are those remaining to be allocated to the several classes of work. The overall objective of the allocation process is to distribute the indirect costs of the institution to its various major activities or cost objectives in reasonable proportions with the benefits provided to those activities or cost objective. Because of the diverse natures and purposes of organizations falling within the definition of a nonprofit organization, it is impractical to specifically identify those functions which constitute major activities for purposes of identifying and distributing indirect costs. Such identification will be dependent upon an institution's purpose-in-being, the services it renders to the public, its clients and/or members, the amount of effort devoted to fund raising activities, public relations, and membership activities, etc (see sec. C.2.).

2. Indirect costs shall be accumulated by logical cost groupings with due consideration of the reasons for incurring the costs. Each grouping should be determined so as to permit distribution of the groupings on the basis of the benefits accruing to the several cost objectives. Subgrouping may be required where there is no single equitable distribution base for all the elements of cost comprising a group. Actual conditions must be taken into account in selecting the method or base to be used in distributing the expenses assembled under each of the individual cost groupings established to applicable cost objectives. Where a distribution can be made by assignment of a cost grouping directly to the area benefited, the distribution should be made in that manner. Where the expenses under a cost grouping are more general in nature, the distribution to the cost objectives should be made through use of a selected base which will produce results which are equitable to both the Government and the institution. In general, any cost element or cost-related factor associated with the institution's work is potentially adaptable for use as a distribution base provided: (1) It can readily be expressed in terms of dollars or other quantitative measure (total direct expenditures, direct salaries, man-hours applied, square feet utilized, hours of usage, number of documents processed, population served, and the like); and (2) it is common to the cost objectives during the base period. The essential consideration in selection of the distribution base in each instance is that it be the one best suited for assigning the pool of costs to the cost objectives in accord with the relative benefits derived; the traceable cause and effect relationship; or logic and reason, where neither benefit nor cause and effect relationship is determinable.

3. The number and composition of the groupings should be governed by practical considerations and should be such as not to complicate unduly the allocation where substantially the same results are achieved through less precise methods.

[illegible] A base period for distribution of indirect [illegible]ts is the period during which such costs [illegible] incurred and accumulated for distribution to work performed within that period. The base period normally should coincide [illegible] the fiscal year established by the institution, but in any event the base period should be so selected as to avoid inequities in the distribution of costs.

E. *Determination and application of indirect cost rate or rates*—1. *Indirect cost pools.*—(a) Subject to (b) below, indirect costs allocable to an institution's direct functions should be treated as a common pool, and the costs in such common pool should then be distributed to the individual projects benefiting therefrom by use of a single rate.

(b) In some instances a single rate for use across the board on all activities at an institution may not be appropriate, since it would not take into account those different environmental factors which may affect substantially the indirect costs applicable to a particular segment of work at the institution. For this purpose, a particular segment of work may be that performed under a single grant/contract or it may consist of work under a group of grants/contracts performed in a common environment. The environmental factors are not limited to the physical location of the work. Other important factors are the level of the administrative support required, the nature of the facilities or other resources employed, the scientific disciplines or technical skills involved, the organizational arrangements used, or any combination thereof. Where a particular segment of work is performed within an environment which appears to generate a significantly different level of indirect costs, provision should be made for a separate indirect cost pool applicable to such work. The separate indirect cost pool should be developed during the course of the regular distribution process, and the separate indirect cost rate resulting therefrom should be utilized provided it is determined that: (1) Such indirect cost rate differs significantly from that which would have been obtained under (a) above, and (2) the volume of work to which such rate would apply is material in relation to other activity at the institution.

2. *The distribution base.*—Indirect costs should be distributed to each applicable project on the basis of direct salaries and wages, total direct costs or other basis which results in an equitable distribution. For this purpose, an indirect cost rate should be determined for each of the separate indirect cost pools developed pursuant to section E.1. The rate in each case should be stated as the percentage which the amount of the particular indirect cost pool is of the base selected.

F. *Application of principles and procedures.*—1. Costs shall be allowed to the extent that they are reasonable (see B.3.) allocable (see B.4.) and determined to be allowable in view of the other factors set forth in paragraph B.2. and section G. These criteria apply to all of the selected items of cost which follow notwithstanding that particular guidance is provided in connection with certain specific items for emphasis or clarity.

2. Costs of all subcontracts under a grant or cost-reimbursement type contract are subject to those Federal cost regulations and policies appropriate to the subcontract involved. Thus if the subcontract is for supplies or services with a nonprofit institution other than an educational institution, hospital or State and local governmental unit, this document would apply; if the subcontract is for supplies or services with a commercial organization, Federal Procurement Regulation Part 1.15.2 would apply; if the subcontract is with an educational institution, OMB Circular No. A-21 (Federal Procurement Regulation Part 1.15.3) would apply.

3. Selected items of cost are treated in section G. However, section G does not cover every element of cost and every situation that might arise in a particular case. Failure to treat any item of cost in section G is not intended to imply that it is either allowable or unallowable. With respect to all items, whether or not specifically covered, determination of allowability shall be based on the principles and standards set forth in this document and, where appropriate, the treatment of similar or related selected items.

G. *General standards for selected items of cost.*—Sections G-1 through G-46 provide standards to be applied in establishing the allowability of certain items involved in determining costs. These standards should apply irrespective of whether a particular item of cost is properly treated as direct cost or indirect cost. Failure to mention a particular item of cost in the standards is not intended to imply that it is either allowable or unallowable; rather determination as to allowability in each case should be based on the treatment or standards provided for similar or related items of cost. In case of a discrepancy between the provisions of a specific grant/contract and the applicable standards provided, the provisions of the grant/contract shall govern. Under any given grant/contract the reasonableness and allocability of certain items of costs may be difficult to determine. This is particularly true in connection with nonprofit institutions which are so diverse in nature and not subject to effective competitive restraints. In order to avoid possible subsequent disallowance or dispute based on unreasonableness or nonallocability, it is important that institutions entering into grants or contracts with the Government seek agreement in advance of the incurrence of special or unusual costs in categories where reasonableness or allocability are difficult to determine. Such action may also be initiated by the Government.

Examples of costs on which advance agreements may be particularly important are:

1. Compensation for personal services;
2. Consultant fees;
3. Deferred maintenance costs;
4. Excess facility costs;
5. Materials, services and supplies sold between organizations or divisions under common control;
6. Preaward costs;
7. Publication and public information costs;
8. Royalties;
9. Training and educational costs;
10. Travel costs, as related to special or mass personnel movement, and to the class of air travel accommodations allowable;
11. Use charge for fully depreciated assets;
12. Depreciation or use charge on assets donated to the institution by third parties.

1. *Advertising costs.*—(a) Advertising costs mean the costs of advertising media and corollary administrative costs. Advertising media include magazines, newspapers, radio and television programs, direct mail, trade papers, outdoor advertising, dealer cards and window displays, conventions, exhibits, free goods and samples, and the like.

(b) The only advertising costs allowable are those which are solely for: (1) The recruitment of personnel required for the performance by the institution of obligations arising under the grant/contract, when considered in conjunction with all other recruitment costs, as set forth in G.36.; (2) the procurement of scarce items for the performance of the grant/contract; or (3) the disposal of scrap or surplus materials acquired in the performance of the project. Costs of this nature, if incurred for more than one Government award or for both Government work and other work of the institution, are allowable to the extent that the principles in paragraphs B.3., B.4., and section D are observed.

2. *Bad debts.*—Bad debts, including losses (whether actual or estimated) arising from uncollectible customers' accounts and other claims, related costs, and related legal costs, are unallowable.

3. *Bidding or proposal costs.*—Bidding or proposal costs are the immediate costs of preparing bids or proposals on potential Government and non-Government contracts or projects or applications for financial assistance under Federal grant and contract programs, including development of scientific, engineering and cost data necessary to support the institution's bids, proposals or applications. Bidding costs of the current accounting period are allowable as part of the indirect cost pool. Costs of past accounting periods are unallowable. Bidding costs do not include any of those costs described in sections G.16 and G.30.

4. *Bonding costs.*—(a) Bonding costs arise when the Government requires assurance against financial loss to itself or others by reason of the act or default of the grantee/contractor. They arise also in instances where the grantee/contractor requires similar assurance. Included are such bonds as bid, performance, payment, advance payment, infringement, and fidelity bonds.

(b) Costs of bonding required pursuant to the terms of the grant/contract are allowable.

(c) Costs of bonding required by the grantee/contractor in the general conduct of its operations are allowable to the extent that such bonding is in accordance with sound business practice and the rates and premiums are reasonable under the circumstances.

5. *Civil defense costs.*—(a) Civil defense costs are those incurred in planning for, and the protection of life and property against, the possible effects of enemy attack. Reasonable costs of civil defense measures (including costs in excess of normal plant protection costs, first-aid training and supplies, fire fighting training and equipment, posting of additional exit notices and directions, and other approved civil defense measures), undertaken on the institution's premises pursuant to suggestions or requirements of civil defense authorities are allowable when allocated to all work of the institution.

(b) Costs of capital assets under (a) above are allowable through depreciation or use charges in accordance with G.10.

(c) Contributions to local civil defense funds and projects are unallowable.

6. *Compensation for personal services.*—(a) *Definition.*—Compensation for personal services includes all remuneration paid currently or accrued in whatever form and whether paid immediately or deferred for services rendered by employees of the institution during the period of grant/contract performance. It includes, but is not limited to, salary, wages, directors' and executive committee members' fees, bonuses, incentive awards, employee insurance, fringe benefits, and contributions to pension, annuity and management employee incentive compensation plans.

(b) *Allowability.*—Except as otherwise specifically provided in this subsection, the costs of compensation for personal services are to be treated as allowable to the extent that:

(1) Compensation is paid in accordance with policy, programs, and procedures that effectively relate individual compensation to the individual's contribution to the performance of grant or contract work, result in internally consistent treatment of employees in like situations, and effectively relate compensation paid within the organization to that paid for similar services outside the organization;

(2) Total compensation of individual employees is reasonable for the services rendered; and

(3) Costs are not in excess of those costs which are allowable by the Internal Revenue Code and regulations thereunder.

(c) *Reasonableness.*—(1) When the institution is predominantly engaged in activities other than those sponsored by the Federal Government, compensation for employees on federally sponsored work will be considered reasonable to the extent that it is consistent with that paid for similar work in the institution's other activities;

(2) When the institution is predominantly engaged in federally sponsored activities, and in cases where the kind of employees required for the federally sponsored activities are not found in the institution's other activities, compensation for employees on federally sponsored work will be considered reasonable to the extent that it is comparable to that paid for similar work in the labor markets in which the institution competes for the kind of employees involved.

(d) *Review and approval of compensation of individual employees.*—In determining the reasonableness of compensation, the compensation of each individual employee normally need not be subject to review and approval. Reviews and approvals of individuals need be made only in those cases in which a general review reveals amounts or types of compensation which appear unreasonable or otherwise out of line.

(e) *Special considerations in determining allowability.*—Certain conditions require special consideration and possible limitation as to allowability for grant and contract cost purposes where amounts appear excessive. Among such conditions are the following:

(1) Compensation to shareholders, members, trustees, directors, associates, officers or members of the immediate families thereof, or to persons who are contractually committed to acquire a substantial financial interest in the enterprise. Determination should be made that such compensation is reasonable for the actual personal services rendered rather than a distribution of earnings in excess of costs.

(2) Any change in an institution's compensation policy resulting in a substantial increase in the institution's level of compensation, particularly when it was concurrent with an increase in the ratio of Government awards to other business, or any change in the treatment of allowability of specific types of compensation due to changes in Government policy.

(3) The institution's activities are such that its compensation levels are not subject to the restraints normally occurring in the conduct of competitive business.

(f) Notwithstanding any other provisions of this subsection, costs of compensation are not allowable to the extent that they result from provisions of labor management agreements that, as applied to work in the performance of Government grants or contracts are determined to be unreasonable either because they are unwarranted by the character and circumstances of the work or because they are discriminatory against the Government. The application of the provisions of a labor-management agreement designed to apply to a given set of circumstances and conditions of employment (for example, work involving extremely hazardous activities or work not requiring recurrent use of overtime) is unwarranted when applied to a Government grant or contract involving significantly different circumstances and conditions of employment (for example, work involving less hazardous activities or work continually requiring use of overtime). It is discriminatory against the Government if it results in individual personnel compensation (in whatever form or name) in excess of that being paid for similar non-Government work under comparable circumstances. Disallowance of costs will not be made under this subparagraph unless:

(1) The institution has been permitted an opportunity to justify the costs; and

(2) Due consideration has been given to whether there are unusual conditions pertaining to the Government work which impose burdens, hardships, or hazards on the institution's employees, for which compensation that might otherwise appear unreasonable is required to attract and hold necessary personnel.

(g) (1) In addition to the general requirements set forth in (a) through (f) of this subsection, certain forms of compensation are subject to further requirements as specified in (2) through (9) below.

(2) *Salaries and wages.*—Salaries and wages for current services include gross compensation paid to employees in the form of cash, products, or services, and are allowable. However, see G.25. as it relates to compensation for overtime.

(3) *Incentive compensation.*—Incentive compensation to employees based on cost reduction, or efficient performance, suggestion awards, safety awards, etc. are allowable to the extent that the overall compensation is determined to be reasonable and such costs are paid or accrued pursuant to an agreement entered into in good faith between the institution and the employees before the services were rendered, or pursuant to an established plan followed by the institution só consistently as to imply, in effect, an agreement to make such payment. Awards and incentive compensation when deferred are allowable to the extent provided in (4) below.

(4) *Deferred compensation.*—(a) As used herein, deferred compensation includes all remuneration, in whatever form, for which the employee is not paid until after the lapse of a stated period of years or the occurrence

of other events as provided in the plans, except that it does not include normal end of accounting period accruals for regular salaries and wages. It includes (i) contributions to pension and annuity plans, (ii) contributions to disability, withdrawal, insurance, survivorship, and similar benefit plans, and (iii) other deferred compensation.

(b) Deferred compensation is allowable to the extent that (i) except for past service pension and retirement costs, it is for services rendered during the grant/contract period; (ii) it is, together with all other compensation paid to the employee, reasonable in amount; (iii) it is paid pursuant to an agreement entered into in good faith between the institution and its employees before the services are rendered, or pursuant to an established plan followed by the institution so consistently as to imply, in effore the services are rendered, or pursuant (iv) the benefits of the plan are vested in the employees or their designated beneficiaries and no part of the deferred compensation reverts to the employer institution; (v) in the case of past service pension costs, it is amortized over a period of 10 years or more; and (vi) for a plan which is subject to approval by the Internal Revenue Service, it falls within the criteria and standards of the Internal Revenue Code and the regulations of the Internal Revenue Service.

(c) In determining the cost of deferred compensation allowable under the grant or contract, appropriate adjustments shall be made for credits or gains, including those arising out of both normal and abnormal employee turnover, or any other contingencies that can result in a forfeiture by employees of such deferred compensation. Adjustments shall be made only for forfeitures which directly or indirectly inure to the benefit of the institution; forfeitures which inure to the benefits of other employees covered by a deferred compensation plan with no reduction in the institution's costs will not normally give rise to an adjustment in grant/contract costs. Adjustments for normal employee turnover shall be based on the institution's experience and on foreseeable prospects, and shall be reflected in the amount of cost currently allowable. Such adjustments will be unnecessary to the extent that the institution can demonstrate that its contributions take into account normal forfeitures. Adjustments for possible future adnormal forfeitures shall be effected according to the following rules:

(i) Abnormal forfeitures that are foreseeable and which can be currently evaluated with reasonable accuracy, by actuarial or other sound computation shall be reflected by an adjustment of current costs otherwise allowable; and

(ii) Abnormal forfeitures, not within (i) above, may be made the subject of agreement between the Government and the institution either as to an equitable adjustment or a method of determining such adjustment.

(d) In determining whether deferred compensation is for services rendered during the agreement period or is for future services, consideration shall be given to conditions imposed upon eventual payment, such as requirements of continued employment, consultation after retirement, and covenants not to compete.

(5) *Fringe benefits.*—Fringe benefits are allowances and services provided by the institution to its employees as compensation in addition to regular wages and salaries. Costs of fringe benefits, such as pay for vacations, holidays, sick leave, military leave, employee insurance, and supplemental unemployment benefit plans are allowable to the extent required by law, employer-employee agreement, or an established policy of the institution.

(6) *Severance pay.*—See G.40.

(7) *Training and education expenses.*—See G.44.

(8) *Location allowances.*—(a) "Location allowances," sometimes called "supplemental pay" or "incentive pay," are compensation in addition to normal wages or salaries and are paid by institutions to especially compensate or induce employees to undertake or continue work at locations which may be isolated or in an unfavorable environment. Location allowances include extra wage or salary payments in the form of station allowances, extended per diem, or mileage payments for daily commuting; they also include such benefits as institution-furnished housing. Payment of location allowances shall be allowed as costs under grants and cost-reimbursement type contracts, or recognized in pricing fixed-price type contracts, only with prior approval in writing from the awarding agency and only where and so long as the isolation or unfavorable environment of the site makes such payments necessary to the accomplishment of the work without unacceptable delays. Whether the site is so isolated, or its environment is so unfavorable, as to require location allowances is to be determined in the light of (a) its location and climate; (b) the availability and adequacy of housing within reasonable commuting distance; and (c) the availability and adequacy of education, recreational, medical, and hospital facilities. The extent to which compensation includes location allowances is to be determined by comparing it with (a) the institution's normal compensation policy, including pay scales at its principal operating locations; (b) pay scales of other organizations and concerns operating at or near the site; and (c) compensation paid by other concerns within the same field for similar services elsewhere.

● (b) Locations for which location allowances are paid shall be reviewed at least once a year to determine whether such allowances should continue to be allowed.

(9) *Support of salaries and wages.*—(a) Direct charges for professionals must be supported by either:

(i) an adequate appointment and workload distribution system, accompanied by monthly reviews performed by responsible officials and a reporting of any significant change in workload distribution of each professional (i.e., an exception reporting system) or

(ii) a monthly after-the-fact certification system which will require persons in supervisory positions having firsthand knowledge of the services performed to report the distribution of effort (i.e., a positive reporting system). Such reports must account for the total salaried effort of the persons covered. Consequently, a system which provides for the reporting only of effort applicable to federally sponsored activities is not acceptable.

(b) Direct charges for salaries and wages of nonprofessionals will be supported by time and attendance and payroll distribution records.

(c) Allowable indirect personal services costs will be supported by the institution's accounting system maintained in accordance with generally accepted institutional practices. Where a comprehensive accounting system does not exist, the institution should make periodic surveys no less frequently than annually to support the indirect personal services costs for inclusion in the overhead pool. Such supporting documentation must be retained for subsequent review by Government representatives.

7. *Capital expenditures.*—The costs of equipment, buildings, and repairs which materially increase the value or useful life of buildings or equipment are unallowable except as provided for in the grant/contract.

8. *Contingencies.*—(a) A contingency is a possible future event or condition arising from presently known or unknown causes, the outcome of which is indeterminable at the present time.

(b) In historical costing, contingencies are not normally present since such costing deals with costs which have been incurred and recorded on the institution's books. Accordingly, contingencies are generally unallowable for historical costing purposes. However, in some cases, as for example, terminations, a contingency factor may be recognized which is applicable to a past period to give recognition to minor unsettled factors in the interest of expeditious settlement.

(c) In connection with estimates of future costs, contingencies fall into two categories:

(1) Those which may arise from presently known and existing conditions, the effects of which are foreseeable within reasonable limits of accuracy; e.g., pension funds, sick leave and vacation accruals, etc. In such situations where they exist, contingencies of this category are to be included in the estimates of future cost so as to provide the best estimate of performance costs; and

(2) Those which may arise from presently known or unknown conditions, the effect of which cannot be measured so precisely as to provide equitable results to the institution and to the Government; e.g., results of pending litigation, and other general business risks. Contingencies of this category are to be excluded from cost estimates under the several items of cost, but should be disclosed separately, including the basis upon which the contingency is computed in order to facilitate the negotiation of appropriate contractual coverage (see, for example, G.17., G.21., and G.40.).

9. *Contributions and donations.*—(a) Contributions and donations by the grantee/contractor are unallowable.

(b) The value of donated services or goods provided by individual volunteers or members of volunteer organizations is not an allowable cost; however, the fair market value of donated services or goods utilized in the performance of a direct cost activity as defined in C.1. and C.2. shall be considered in the determination of the indirect cost rate(s) and, accordingly, shall be allocated a proportionate share of indirect cost.

10. *Depreciation and use allowances.*—(a) Institutions may be compensation for the use of buildings, capital improvements and usable equipment on hand through depreciation or use allowances. Depreciation is a charge to current operations which distributes the cost of a tangible capital asset, less estimated residual value, over the estimated useful life of the asset in a systematic and logical manner. It does not involve a process of valuation. Useful life has reference to the prospective period of economic usefulness in the particular institution's operations as distinguished from physical life. Use allowances are the means of allowing compensation when depreciation or other equivalent costs are not considered.

(b) Depreciation or a use allowance on assets donated by third parties is allowable. However, any limitations on the amount of depreciation which would have applied to the donor as a result of restrictions contained in this section shall also apply to the recipient organization.

(c) Due consideration will be given to Government-furnished facilities utilized by the institution when computing use allowances and/or depreciation if the Government-furnished facilities are material in amount. Computation of the use allowance and/or depreciation will exclude both the cost or any portion of the cost of grounds, buildings, and equipment borne by or donated by the Federal Government, irrespective of where title was originally vested or where it presently resides, and second, the cost of grounds. Capital expenditures for land improvements (paved areas, fences, streets, sidewalks, utility conduits, and similar improvements not already included in the cost of buildings) are allowable provided the systematic amortization of such capital expenditures has been provided in the institution's books of account, based on reasonable determinations of the probable useful lives of the individual items involved, and the share allocated to the grant or contract is developed from the amount thus amortized for the base period involved.

(d) Normal depreciation on an institution's plant, equipment, and other capital facilities, except as excluded by (d) below, is an allowable element of cost provided that the amount thereof is computed:

(1) Upon a property cost basis which could have been used by the institution for Federal income tax purposes, had such institution been subject to the payment of income tax; and

(2) By the consistent application to the assets concerned of any generally accepted accounting method, and subject to the limitations of the Internal Revenue Code of 1954 as amended, including—

(a) The straight line method;

(b) The declining balance method, using a rate not exceeding twice the rate which would have been used had the annual allowance been computed under the method described in (a) above;

(c) The sum-of-the-years-digits method; and

(d) Any other consistent method productive of an annual allowance which, when added to all allowances for the period commencing with the use of the property and including the current year does not during the first two-thirds of the useful life of the property exceed the total of such allowances which would have been used had such allowances been computed under the method described in (b) above.

(e) Where the depreciation method is followed, adequate property records must be maintained. The period of useful service (service life) established in each case for usable capital assets must be determined on a realistic basis which takes into consideration such factors as type of construction, nature of the equipment used, technological developments in the particular area, and the renewal and replacement policies followed for the individual items or classes of assets involved. Where the depreciation method is introduced for application to assets acquired in prior years, the annual charges therefrom must not exceed the amounts that would have resulted had the depreciation method been in effect from the date of acquisition of such assets.

(f) Depreciation on idle or excess facilities shall not be allowed except on such facilities as are reasonably necessary for standby purposes. (See G.13.)

(g) Where an institution elects to go on a depreciation basis for a particular class of assets, no depreciation, rental or use charge may be allowed on any such assets that would be viewed as fully depreciated; provided, however, that reasonable use charges may be negotiated for any such assets if warranted after taking into consideration the cost of the facility or item involved, the estimated useful life remaining at time of negotiation, the actual replacement policy followed in the light of service lives used for calculating depreciation, the effect of any increased maintenance charges or decreased efficiency due to age, and any other factors pertinent to the utilization of the facility or item for the purpose contemplated.

(h) Where the use allowance method is followed, the use allowance for buildings and improvements will be computed at an annual rate not exceeding 2 percent of acquisition cost. The use allowance for equipment will be computed at an annual rate not exceeding $6\frac{2}{3}$ percent of acquisition cost of usable equipment in those cases where the institution maintains current records with respect to such equipment on hand. Where the institution's records reflect only the cost (actual or estimated) of the original complement of equipment, the use allowance will be computed at an annual rate not exceeding 10 percent of such cost. Original complement for this purpose means the complement of equipment initially placed in buildings to perform the functions currently being performed in such buildings; however, where a permanent change in the function of a building takes place, a redetermination of the original complement of equipment may be made at that time to establish a new original complement. In those cases where no equipment records are maintained, the institution will justify a reasonable estimate of the acquisition cost of usable equipment which may be used to compute the use allowance at an annual rate not exceeding $6\frac{2}{3}$ percent of such estimate.

(i) Depreciation and/or use charges should usually be allocated to all activities as an indirect cost.

11. *Employee morale, health, welfare costs and credits.*—(a) Employee morale, health and welfare activities are those services or benefits provided by the institution to its employees to improve working conditions, employer-employee relations, employee morale and employee performance. Such activities include house publications, health or first-aid clinics, recreation, employee counseling services and, for the purpose of this paragraph, food and dormitory services. Food and dormitory services include operating or furnishing facilities for cafeterias, dining rooms, canteens, lunch wagons, vending machines, living accommodations or similar types of services for the institution's employees at or near its facilities.

(b) Except as limited by (c) below, the aggregate of costs incurred on account of all activities mentioned in (a) above, less income generated by all such activities is allowable to the extent that the net amount is reasonable.

(c) Losses from the operation of food and dormitory services may be included as cost incurred under (b) above, only if the institution's objective is to operate such services on a break-even basis. Losses sustained because food services or lodging accommodations are furnished without charge or at prices or rates which obviously would not be conductive to accomplishment of the above objective; are not allowable, except that a loss may be allowed to the extent the institution can demonstrate that unusual circumstances exist (e.g., (i) where the institution must provide food or dormitory services at remote locations where adequate commercial facilities are not reasonably available or (ii) where it is necessary to operate a facility at a lower volume than the facility could enconomically support) such that, even with efficient management, operation of the services on a break-even basis would require charging inordinately high prices or prices or rates higher than those charged by commercial establishments offering the same services in the same geographical areas.

(d) In those situations where the institution has an arrangement authorizing an employee association to provide or operate a service such as vending machines in the institution's plant, and retain the profits derived therefrom, such profits shall be treated in the same manner as if the institution were providing the service (but see (e)).

(e) Contributions by the institution to an employee organization, including funds set over from vending machine receipts or similar sources, may be included as cost incurred under (b) above only to the extent that the institution demonstrates that an equivalent amount of the costs incurred by the employee organization would be allowable if incurred by the institution directly.

12. *Entertainment costs.*—Costs of amusement, diversion, social activities, ceremonials, and incidental costs relating thereto, such as meals, lodging, rentals, transportation, and gratuities, are unallowable (but see G.11. and G.43.).

13. *Excess facility costs.*—(a) As used in this paragraph, the words and phrases defined in this subparagraph (a) shall have the meanings set forth below:

(1) **Facilities** means plant or any portion thereof (inclusive of land integral to the operation); equipment individually or collectively; or any other tangible capital asset, wherever located, and whether owned or leased by the institution.

(2) **Idle Facilities** means completely unused facilities that are excess to the institution's current needs.

(3) **Idle Capacity** means the unused capacity of partially used facilities. It is the difference between that which a facility could achieve under 100 percent operating time on a one-shift basis less operating interruptions resulting from time lost for repairs, setups, unsatisfactory materials, and other normal delays, and the extent to which the facility was actually used to meet demands during the accounting period. (A multiple shift basis may be used if it can be shown that this amount of usage could normally be expected for the type of facility involved.)

(4) **Costs of Idle Facilities or Idle Capacity** are costs such as maintenance, repair, housing, rent, and other related costs, e.g., property taxes, insurance, and depreciation.

(b) The cost of idle facilities are unallowable except to the extent that:

(i) They are necessary to meet fluctuations in workload; or

(ii) Although not necessary to meet fluctuations in workload, they were necessary when acquired and are now idle because of changes in program requirements, grantee/contractor efforts to produce more economically, reorganization, termination, or other causes which could not have been reasonably foreseen.

Under the exception stated in (ii) of this subparagraph (b), costs of idle facilities are allowable for a reasonable period of time, ordinarily not to exceed 1 year, depending upon the initiative taken to use, lease, or dispose of such facilities (but see G.43(b) and (e)).

(c) The costs of idle capacity are normal costs of doing business and are a factor in the normal fluctuations of usage or overhead rates from period to period. Such costs are allowable, provided the capacity is reasonably anticipated to be necessary or was originally reasonable and is not subject to reduction or elimination by subletting, renting, or sale, in accordance with sound business, economics, or security practices. Widespread idle capacity throughout an entire plant or among a group of assets having substantially the same function may be idle facilities.

14. *Fines and penalties.*—Costs of fines and penalties resulting from violations of, or failure of the institution to comply with, Federal, State, and local laws and regulations are unallowable except when incurred as a re-

sult of compliance with specific provisions of the grant or contract instructions in writing from the awarding agency.

15. *Fringe benefits.*—See G.6.(g)(5).

16. *Independent research and development.*—(a) An institution's independent research and development (IR&D) is that research and development which is not sponsored by the Government or a non-Government organization or agency under a grant/contract or other arrangement.

(b) Basic research, for the purpose of this document, is that type of research which is directed toward increase of knowledge within a particular discipline. In such research, the primary aim of the investigator is a fuller knowledge or understanding of the subject under study, rather than any practical application thereof. Applied research, for the purpose of this document consists of that type of effort which (1) is normally derived from the results of basic research, but may not be severable from the related basic research, (2) attempts to determine and expand the potentialities of new scientific discoveries or improvements in technology, materials, processes, methods, devices, and techniques, and (3) attempts to "advance the state of the art." Applied research, does not include any such efforts when their principal aim is the design, development, or test of specific articles or services to be offered for sale, which are within the definition of the term development as defined in (c) below. Census research, for the purpose of this document, is that type of activity devoted to the compilation and interpretation of statistical and other analytical information acquired through survey (e.g., interview, circularization of questionnaires), observations or from books, treatises, articles, or other sources relative to specifically defined activities, occurrences or conditions for the purpose of accomplishing some scientific end.

(c) "Development" is the systematic use of scientific knowledge which is directed toward the production of, or improvements in, useful products to meet specific performance requirements, but exclusive of manufacturing and production engineering.

(d) Independent research and development will be treated in a manner consistent with the treatment of sponsored research and development. Accordingly, an institution's I R & D shall be allocated its proportionate share of indirect costs on the same basis that indirect costs are allocated to sponsored research and development.

(e) The cost of an institution's I R & D, including its proportionate share of indirect costs, is unallowable.

17. *Insurance and indemnification.*—(a) Insurance includes insurance which the institution is required to carry, or which is approved, under the terms of the grant or contract and any other insurance which the institution maintains in connection with the general conduct of its business.

(1) Costs of insurance required or approved, and maintained, pursuant to the grant or contract are allowable.

(2) Costs of other insurance maintained by the institution in connection with the general conduct of its business are allowable subject to the following limitations:

(a) Types and extent of coverage shall be in accordance with sound business practice and the rates and premiums shall be reasonable under the circumstances;

(b) Costs allowed for business interruption or other similar insurance shall be limited to exclude coverage or profit;

(c) Costs of insurance or of any provision for a reserve covering the risk of loss of or damage to Government property are allowable only to the extent that the institution is liable for such loss or damage and such insurance or reserve does not cover loss or damage which results from willful misconduct or lack of good faith on the part of any of the institution's trustees, directors or officers, or other equivalent representatives, who has supervision or direction of (i) all or substantially all of the institution's business, or (ii) all or substantially all of the institution's operations at any one separate location in which the grant or contract is being performed, or who are specifically identified as the project director in the project or otherwise primarily responsible for the direction and/or execution of the project supported by the grant or contract.

(d) Provisions for a reserve under an approved self-insurance program are allowable to the extent that types of coverage, extent of coverage, and the rates and premiums would have been allowed had insurance been purchased to cover the risks; and

(e) Costs of insurance on the lives of trustees, officers, or other employees holding positions of similar responsibilities are allowable only to the extent that the insurance represents additional compensation (see G.6.).

(3) Actual losses which could have been covered by permissible insurance (through an approved self-insurance program or otherwise) are unallowable unless expressly provided for in the grant or contract, except:

(a) Costs incurred because of losses not covered under nominal deductible insurance coverage provided in keeping with sound business practice, are allowable; and

(b) Minor losses not covered by insurance, such as spoilage, breakage, and disappearance of supplies, which occur in the ordinary course of doing business, are allowable.

(c) Indemnification includes securing the institution against liabilities to third persons and any other loss or damage, not compensated by insurance or otherwise. The Government is obligated to indemnify the institution only to the extent expressly provided in (a)(3) above.

18. *Interest and other financial costs.*—(a) Costs incurred for interest on borrowed capital or temporary use of endowment funds, however represented, are unallowable.

(b) Costs of organized fund raising, including financial campaigns, endowment drives, solicitation of gifts and bequests, and similar expenses incurred solely to raise capital or obtain contributions, are unallowable.

(c) Costs of investment counsel and staff and similar expenses incurred solely to enhance income from investments are unallowable.

(d) Where substantial effort or time is devoted to fund raising and investment activities as described in (b) and (c) in relation to other functions of an institution, such activities shall be considered as a major activity of the institution and shall be allocated its share of indirect costs in accordance with section D (see also C.2.).

19. *Labor relations costs.*—Costs incurred in maintaining satisfactory relations between the institution and its employees, including costs of labor management committees, employee publications, and other related activities, are allowable.

20. *Losses on other grants or contracts.*—Any excess of costs over income on any grant or contract is unallowable as a cost of any other grant or contract.

21. *Maintenance and repair costs.*—(a) Costs necessary for the upkeep of property (including Government property unless otherwise provided for), which neither add to the permanent value of the property nor appreciably prolong its intended life, but keep it in an efficient operating condition, are to be treated as follows (but see G.10.):

(1) Normal maintenance and repair costs are allowable;

(2) Extraordinary maintenance and repair costs are allowable, provided such are allocated to the periods to which applicable for purposes of determining grant or contract costs.

(b) Expenditures for plant and equipment, including rehabilitation thereof, which, according to generally accepted accounting principles as applied under the institution's established policy, should be capitalized and subjected to depreciation, are allowable only on a depreciation basis.

22. *Materials costs.*—(a) The cost of consumable supplies, serum, drugs, fabricated parts, and other materials necessary to carry out the objectives of a grant or contract, whether purchased outside or manufactured by the institution are allowable subject to the provisions (b) through (e) below. The cost may include such collateral items as inbound transportation and intransit insurance.

In computing these costs, consideration will be given to reasonable overruns, spoilage, or defective work if consistent with the nature of the project being performed and the recognized practice of the industry.

(b) Costs of material shall be suitably adjusted for applicable portions of income and other credits, including available trade and cash discounts, refunds, rebates, allowances, and credits for scrap and salvage and material returned to vendors. Such income and other credits shall either be credited directly to the cost of the material involved or be allocated (as credits) to indirect costs. However, where the institution can demonstrate that failure to take cash discounts was due to reasonable circumstances, such lost discounts need not be so credited.

(c) Reasonable adjustments arising from difference between periodic physical inventories and book inventories may be included in arriving at costs, provided such adjustments relate to the period of performance of the grant or contract.

(d) When the materials are purchased specifically for and identifiable solely with performance under a grant or contract, the actual purchase cost thereof should be charged to that grant or contract. If material is issued from stores, any generally recognized method of pricing such material is acceptable if that method is consistently applied and the results are equitable. When estimates of material costs to be incurred in the future are required, either current market price or anticipated acquisition cost may be used, but the basis of pricing must be disclosed.

(e) Allowance for all materials, supplies and services which are sold or transferred between any division, subsidiary or affiliate of the institution under a common control shall be on the basis of cost incurred in accordance with these principles, except that when it is the established practice of the transferring organization to price interorganization transfers of materials, supplies and services at other than cost for non-Government work of the institution or any division, subsidiary or affiliate of the institution under a common control, allowance may be at a price when:

(1) It is or is based on an "established catalog or market price of commercial items sold in substantial quantities to the general public"; or

(2) It is the result of "adequate price competition" and is the price at which an award was made to the affiliated organization after obtaining quotations on an equal basis from such organization and one or more outside sources which normally produce the item or its equivalent in significant quantity:

*Provided*, That in either case:

(1) The price is not in excess of the transferor's current sales price to his most favored customer (including any division, subsidiary or affiliate of the institution under a common

control) for a like quantity under comparable conditions, and

(2) The price is not determined to be unreasonable by the awarding agency.

The price determined in accordance with (1) above should be adjusted, when appropriate, to reflect the quantities being procured and may be adjusted upward or downward to reflect the actual cost of any modifications necessary because of grant or contract requirements.

23. *Organization costs.*—Expenditures, such as incorporation fees, attorney's fees, accountant's fees, brokers' fees, fees to promoters and organizers, in connection with (a) organization or reorganization of a business or (b) raising capital, are unallowable unless specified otherwise in the grant or contract.

24. *Other business expenses.*—Included in this item are such recurring expenses as preparation and publication of reports to members and trustees, preparation and submission of required reports and forms to taxing and other regulatory bodies, and incidental costs of directors and committee meetings. The above and similar costs are allowable when allocated on an equitable basis.

25. *Overtime, extra-pay shift and multi-shift premiums.*—Premiums for overtime, extra-pay shift, and multi-shift work are allowable only to the extent approved by the awarding agency except:

(a) When necessary to cope with emergencies, such as those resulting from accidents, natural disasters, breakdowns of production equipment, or occasional production bottlenecks of a sporadic nature;

(b) When by indirect labor employees such as those performing duties in connection with administration, protection, transportation, maintenance, standby plant protection, operation of utilities, or accounting;

(c) In the performance of tests, laboratory procedures, or other similar operations which are continuous in nature and cannot reasonably be interrupted or otherwise completed; or

(d) When lower overall cost to the Government will result.

Overtime premiums and shift premiums may be considered proper for approval when determined in writing by the awarding agency that approval:

(a) Is necessary to meet delivery or performance schedules, and such schedules are determined to be extended to the maximum consistent with essential program objectives;

(b) Is necessary to make up for delays which are beyond the control and without the fault or negligence of the institution;

(c) Is necessary to eliminate foreseeable bottlenecks of an extended nature which cannot be eliminated in any other way.

Approvals should ordinarily be prospective, but may be retroactive where justified by the circumstances. Such approvals may be for an individual grant or contract project, or program, or for a division, department, or branch, as most practicable.

Overtime for which overtime premiums would be at Government expense should not be approved under an award where the institution is already obligated, without the right to additional compensation, to meet the required delivery date.

Where overtime premiums or shift premiums are being paid at Government expense in connection with the performance of Government grant or contract, the continued need therefor should be subject to periodic review by the awarding agency.

26. *Patent and copyright costs.*—Costs of preparing disclosures, reports, and other documents required by the grant/contract and of searching the art to the extent necessary to make such disclosures, are allowable. In accordance with the conditions of the grant or contract relating to patents or copyrights, costs of preparing documents and any other costs, in connection with the filing of a patent application or copyright where title is conveyed to the Government, are allowable. However, similar costs incurred in connection with patents or copyrights where title is not conveyed to the Government are unallowable (see G.39.).

27. *Pension plans.*—(See G.6.(g)-(4).)

28. *Plant protection costs.*—Costs of items such as (a) wages, uniforms, and equipment of personnel engaged in plant protection, (b) depreciation on plant protection capital assets, and (c) necessary expenses to comply with security requirements are allowable.

29. *Plant reconversion costs.*—Plant reconversion costs are those incurred in the restoration or rehabilitation of the institutions' facilities to approximately the same condition existing immediately prior to the commencement of the grant or contract work, fair wear and tear excepted. Reconversion costs are unallowable except for the cost of removing Government property and the restoration or rehabilitation costs caused by such removal. However, in special circumstances where equity so dictates, additional costs may be allowed to the extent agreed upon in writing before the costs are incurred. Whenever such costs are given consideration, care should be exercised to avoid duplication through allowance as contingencies, as additional profit or fee, or in other grants or contracts.

30. *Preaward costs.*—Preaward costs are those incurred prior to the effective date of the grant or contract directly pursuant to the negotiation and in anticipation of the award of the grant or contract where such incurrence is necessary to comply with the proposed delivery schedule or period of performance. Such costs are allowable only to the extent that they would have been allowable if incurred after the date of the award and only with the prior written approval of the awarding agency.

31. *Professional service costs—legal, accounting, scientific and other.*—(a) Costs of professional services rendered by the member of a particular profession who are not employees of the institution are allowable, subject to (b), (c), and (d) below, when reasonable in relation to the services rendered (but see G.23.).

(b) Factors to be considered in determining the allowability of costs in a particular case include:

(1) The nature and scope of the service rendered in relation to the service required;

(2) The necessity of contracting for the service considering the institution's capability in the particular area;

(3) The past pattern of such costs, particularly in years prior to the award of Government work;

(4) The impact of Government work on the institution's business (i.e., what new problems have arisen);

(5) Whether the proportion of Government work to the institution's total business is such as to influence the institution in favor of incurring the cost, particularly where the services rendered are not of a continuing nature and have little relationship to work under Government grants/contracts;

(6) Whether the service can be performed more economically by employment rather than by contracting;

(7) The qualifications of the individual or concern rendering the service and the customary fees charged, especially on non-Government grants/contracts;

(8) Adequacy of the contractual agreement for the service (e.g., description of the service, estimate of time required, rate of compensation, termination provisions).

(c) Retainer fees to be allowable must be reasonably supported by evidence of bona fide services available or rendered.

(d) Costs of legal, accounting, and consulting service, and related costs, incurred in connection with organization and reorganization, defense of antitrust suits, and the prosecution of claims against the Government, are unallowable. Costs of legal, accounting, and consulting services, and related costs, incurred in connection with patent or copyright infringement litigation, are unallowable unless otherwise provided for in the grant or contract.

32. *Profits and losses on disposition of plant, equipment, or other capital assets.*—Profits or losses of any nature arising from the sale or exchange of plant, equipment, or other capital assets, including sale or exchange of either short- or long-term investments, shall be excluded in computing grant or contract costs.

33. *Public information services costs.*—Public information services cost includes the cost associated with promotions, public relations, pamphlets, news releases, and other forms of information services. Such costs are normally incurred to:

(a) Inform or instruct individuals, groups or the general public about health or social problems.

(b) Interest individuals or groups in participating in a service program of the institution.

(c) Provide stewardship reports to State and local government agencies, benefactor foundations and associations, etc.

(d) Appeal for funds.

(e) Disseminate the results of sponsored and non-sponsored research or other activity to the scientific community.

To the extent that the costs incurred for any of these purposes are identifiable with a particular cost objective they should be charged to the objective to which they relate.

If these costs are not identifiable with a particular cost objective, they should be allocated as indirect costs to all major activities of the institution except that costs related to fund raising appeals are unallowable as costs of grants and contracts.

Public information service costs are unallowable as a direct cost of grants and contracts unless formally approved by the awarding agency.

34. *Publication and printing costs.* Publication costs include the costs of printing (including the processes of composition, platemaking, presswork, binding, and the end products produced by such processes), distribution, promotion, mailing and general handling.

Publication costs are unallowable as a direct cost of grants and contracts unless formally approved by the awarding agency.

35. *Rearrangement and alteration costs.*—Costs incurred for ordinary or normal rearrangement and alteration of facilities are allowable. Special arrangement and alteration costs incurred specifically for the project are allowable when written approval has been given in advance by the awarding agency.

36. *Recruitment costs.*—(a) Subject to (b), (c), and (d) of this G. 36., and provided that the size of the staff recruited and maintained is in keeping with workload requirements, costs of help-wanted advertising, operating costs of an employment office necessary to secure and maintain an adequate labor force, costs of operating an aptitude and educational testing program, travel costs of employees while engaged in recruiting personnel, and travel costs of applicants for interviews for prospective employment are allowable to the extent that such costs are incurred pursuant to a well managed recruitment program. Where the institution uses employment agencies, costs

not in excess of standard commercial rates for such services are allowable.

(b) In publications, costs of help-wanted advertising that (1) includes color, (2) includes advertising material for other than recruitment purposes, or (3) is excessive in size (taking into consideration recruitment purposes for which intended and normal business practices in this respect) are unallowable.

(c) Costs of (1) help-wanted advertising and (2) excessive salaries, fringe benefits, and special emoluments that have been offered to prospective employees, designed to attract personnel from another institution performing as grantee or contractor to the Government, or in excess of the standard practices in comparable institutions, are unallowable.

(d) Where relocation costs incurred incident to recruitment of a new employee have been allowed either as an allocable direct or indirect cost and the newly hired employee resigns for reasons within his control within 12 months after hire, the institution shall be required to refund or credit such relocation costs to the Government.

37. *Relocation costs.*—(a) Relocation costs, for the purpose of this document, are costs incident to the permanent change of duty assignment (for an indefinite period, or for a stated period of no less than 12 months) of an existing employee or upon recruitment of a new employee. These costs may include, but are not limited to cost of (i) transportation of the employee, members of his immediate family and his household and personal effects to the new location; (ii) finding a new home, such as advance trips by employees and spouses to locate living quarters and temporary lodging during the transition period; (iii) closing costs (i.e., brokerage fees, legal fees, appraisal fees, etc.), incident to the disposition of housing; (iv) other necessary and reasonable expenses normally incident to relocation, such as cost of cancelling an unexpired lease, disconnecting or reinstalling household appliances, and purchase of insurance against damages to personal property; (v) loss on sale of home; and (vi) acquisition of a home in a new location (i.e., brokerage fees, legal fees, appraisal fees, etc.).

(b) Subject to (c) below, relocation costs of the type covered in (a) (i), (ii), (iii), and (iv) above are allowable, provided: (i) The move is for the benefit of the employer; (ii) reimbursement is in accordance with an established policy or practice consistently followed by the employer, and such policy or practice is designed to motivate employees to relocate promptly and economically; (iii) the costs are not otherwise unallowable under the provisions of G.36. or any other paragraph of this document; and (iv) amounts to be reimbursed shall not exceed the employee's actual (or reasonably estimated) expenses.

(c) Costs otherwise allowable under (b) above are subject to the following additional provisions: (i) The transition period for incurrence of costs of the type covered in (a)(ii) above shall be kept to the minimum number of days necessary under the circumstances, but shall not, in any event, exceed a cumulative total of 30 days including advance trip time; and (ii) allowance for cost of the type covered in (a)(iii) above shall not exceed 8 percent of the sales price of the property sold. Costs of the type covered in (a) (iii) and (iv) above are allowable only in connection with the relocation of existing employees, and are not allowable for newly recruited employees.

(d) Costs of the type covered in (a) (v) and (vi) above are not allowable.

38. *Rental costs (including sale and leaseback of facilities).*—(a) Rental costs of land, building, and equipment and other personal property are allowable if the rates are reasonable in light of such factors as rental costs of comparable facilities and market conditions in the area, the type, life expectancy, condition, and value of the facilities leased, options available, and other provisions of the rental agreement. Application of these factors, in situations where rentals are extensively used, may involve among other considerations, comparison of rental costs with the amount which the institution would have received had it owned the facilities.

(b) Charges in the nature of rent between plants, divisions, or organizations under common control are allowable to the extent such charges do not exceed the normal costs of ownership, such as depreciation, taxes, insurance, and maintenance; provided that no part of such costs shall duplicate any other allowed costs.

(c) Unless otherwise specifically provided in the grant or contract, rental costs specified in sale and leaseback agreements, incurred by institutions through selling plant facilities to investment organizations, such as insurance companies, associate institutions, or to private investors, and concurrently leasing back the same facilities, are allowable only to the extent that such rentals do not exceed the amount which the grantee/contractor would have received had it retained legal title to the facilities.

(d) Rentals for land, building and equipment and other personal property owned by affiliated organizations including corporations or by stockholders, members, directors, trustees, officers or other key personnel of the institution or their families either directly or through corporations, trusts or other similar arrangements in which they hold a more than token interest are allowable only to the extent that such rentals do not exceed the amount the institution would have received had legal title to the facilities been vested in it.

(e) The allowability of rental costs under unexpired leases in connection with terminations is treated in G.42.(e).

39. *Royalties and other costs for use of patents and copyrights.*—(a) Royalties on a patent or copyright or amortization of the cost of acquiring by purchase a copyright, patent or rights thereto, necessary for the proper performance of the grant or contract applicable to grant products or processes, are allowable unless:

(1) The Government has a license or the right to free use of the patent;

(2) The patent or copyright has been adjudicated to be invalid, or has been administratively determined to be invalid;

(3) The patent or copyright is considered to be unenforceable; or

(4) The patent or copyright is expired.

(b) Special care should be exercised in determining reasonableness where the royalties may have been arrived at as a result of less than arm's length bargaining, e.g.:

(1) Royalties paid to persons, including corporations, affiliated with the institution;

(2) Royalties paid to unaffiliated parties, including corporations, under an agreement entered into in contemplation that a Government grant or contract would be awarded, or

(3) Royalties paid under an agreement entered into after the award of the grant or contract.

(c) In any case involving a patent or copyright formerly owned by the institution, the amount of royalty allowed should not exceed the cost which would have been allowed had the institution retained title thereto.

40. *Severance pay.*—(a) Severance pay, also commonly referred to as dismissal wages, is a payment in addition to regular salaries and wages, by institutions to workers whose employment is being terminated. Costs of severance pay are allowable only to the extent that, in each case, it is required by: (1) Law; (2) employer-employee agreement; (3) established policy that constitutes, in effect, an implied agreement on the institution's part; or (4) circumstances of the particular employment.

(b) Costs of severance payments are divided into two categories as follows:

(1) Actual normal turnover severance payments shall be allocated to all work performed in the institution's facilities; or, where the institution provides for accrual of pay for normal severances such method will be acceptable if the amount of the accrual is reasonable in light of payments actually made for normal severances over a representative past period, and if amounts accrued are allocated to all work performed in the institution's facilities; and

(2) Abnormal or mass severance pay is of such a conjectural nature that measurement of costs by means of an accrual will not achieve equity to both parties. Thus accruals for this purpose are not allowable. However, the Government recognizes its obligation to participate, to the extent of its fair share, in any specific payment. Thus, allowability will be considered on a case-by-case basis in the event of occurrence.

41. *Taxes.*—(a) Taxes are certain charges levied by Federal, State, or local governments. They do not include fines and penalties except as otherwise provided herein. In general, taxes which the institution is required to pay and which are paid or accrued in accordance with generally accepted accounting principles are allowable, except for:

(1) Federal income taxes and similar levies against income of the institution derived from activities unreleated to the project supported by the grant or contract.

(2) Taxes in connection with financing, refinancing, or refunding operations (see G.18.).

(3) Taxes from which exemptions are available to the institution directly or available to the institution base on an exemption afforded the Government except when the awarding agency determines that the administrative burden incident to obtaining the exemption outweights the corresponding benefits accruing to the Government;

(4) Special assessments on land which represent capital improvements; and

(5) Taxes on any category of property which is used solely in connection with work other than on Government grants or contracts. (Taxes on property used solely in connection with either non-Government or Government work should be considered directly applicable to the respective category of work unless the amounts involved are insignificant or comparable results would otherwise be obtained.)

(b) Taxes otherwise allowable under paragraph (a) of this section, but upon which a claim of illegality or erroneous assessment exists, are allowable provided the institution, prior to payment of such taxes:

(1) Promptly requests instructions from the awarding agency concerning such taxes, and

(2) Takes all action directed by the awarding agency arising out of subparagraph (1) of this paragraph or an independent decision of the Government as to the existence of a claim of illegality or erroneous assessment, including cooperation with and for the benefit of the Government to: (i) Determine the legality of such assessment, or (ii) secure a refund of such taxes.

Reasonable costs of any such action undertaken by the institution at the direction or with the concurrence of the awarding agency are allowable. Interest and penalties incurred by an institution by reason of the nonpayment of any tax at the direction of the awarding agency or by reason of the failure of the awarding agency to issue timely direction after prompt request therefor, are also allowable.

(c) Any refund of taxes, interest, or penalties, and any payment to the institution of interest thereon, attributable to taxes, interest, or penalties which were allowed as project costs, shall be credited or paid to the Government in the manner directed by the Government, provided any interest actually paid or credited to an institution incident to a refund of tax, interest or penalty shall be paid or credited to the Government only to the extent that such interest accrued over the period during which the institution had been reimbursed by the Government for the taxes, interest or penalties.

42. *Termination costs.*—Grants and contracts terminations generally give rise to the incurrence of costs, or the need for special treatment of costs, which would not have arisen had the project not been terminated. Cost principles covering these items are set forth below. They are to be used in conjunction with the remainder of this document in termination situations.

(a) *Common items.*—The cost of items reasonably usable on the institution's other work shall not be allowable unless the institution submits evidence that it could not retain such items at cost without sustaining a loss. In deciding whether such items are reasonably usable on other work of the institution, the awarding agency should consider the institution's plans and orders for current and scheduled production. Contemporaneous purchases of common items by the institution shall be regarded as evidence that such items are reasonably usable on the institution's other work. Any acceptance of common items as allocable to the terminated portion of the project should be limited to the extent that the quantities of such items on hand, in transit, and on order are in excess of the reasonable quantitative requirements of other work.

(b) *Costs continuing after termination.*—If in a particular case, despite all reasonable efforts by the institution certain costs cannot be discontinued immediately after the effective date of termination, such costs are generally allowable within the limitations set forth in this document, except that any such costs continuing after termination due to the negligence or willful failure of the institution to discontinue such costs shall be considered unallowable.

(c) *Initial costs.*—Initial costs, including starting load and preparatory costs, are allowable, subject to the following:

(1) Starting load costs are costs of a nonrecurring nature arising in the early stages of operation, investigation or production and not fully absorbed because of the termination. Such costs may include the cost of labor and material, and related indirect cost attributable to such factors as:

(a) Excessive spoilage resulting from inexperienced labor;

(b) Idle time and subnormal production occasioned by testing and changing methods of processing;

(c) Employee training; and

(d) Unfamiliarity or lack of experience with the project, materials, manufacturing processes and techniques.

(2) Preparatory costs are costs incurred in preparing to perform the terminated project including costs of initial plant rearrangement and alterations, management and personnel organization, production planning and similar activities, but excluding special machinery and equipment and starting load costs.

(3) If initial costs are claimed and have not been segregated on the institution's books, segregation for settlement purposes shall be made from cost reports and schedules which reflect the high unit cost incurred during the early stages of the project.

(4) When the settlement proposal is on the inventory basis, initial costs should normally be allocated on the basis of total end items called for by the project immediately prior to termination; however, if the project includes end items of a diverse nature, some other equitable basis may be used, such as machine or labor hours.

(5) When initial costs are included in the settlement proposal as a direct charge, such costs shall not also be included in overhead.

(6) Initial costs attributable to only one project shall not be allocated to other projects.

(d) Loss of useful value.

Loss of useful value of special tooling and special machinery and equipment is generally allowable if:

(1) Such special tooling, machinery or equipment is not reasonably capable of use in the other work of the institution;

(2) The interest of the Government is protected by transfer of title or by other means deemed appropriate by the awarding agency; and

(3) The loss of useful value as to any one terminated project is limited to that portion of the acquisition cost which bears the same ratio to the total acquisition cost as the terminated portion of the project bears to the entire terminated project and other Government projects for which the special tooling and special machinery and equipment was acquired.

(e) *Rental costs.*—Rental costs under unexpired leases are generally allowable where clearly shown to have been reasonably necessary for the performance of the terminated project less the residual value of such leases, if:

(1) The amount of such rental claimed does not exceed the reasonable use value of the property leased for the period of the project and such further period as may be reasonable; and

(2) The institution makes all reasonable efforts to terminate, assign, settle, or otherwise reduce the cost of such lease.

There also may be included the cost of alterations of such leased property, provided such alterations were necessary for the performance of the project, and of reasonable restoration required by the provisions of the lease.

(f) *Settlement expenses.*—Settlement expenses including the following are generally allowable:

(1) Accounting, legal, clerical, and similar costs reasonably necessary for—

(a) The preparation and presentation to awarding agency of settlement claims and supporting data with respect to the terminated portion of the project, and

(b) The termination and settlement of subcontracts; and

(2) Reasonable costs for the storage, transportation, protection, and disposition of property acquired or produced for the project.

(g) *Subcontractor claims.*—Subcontractor claims, including the allocable portion of claims which are common to the project and to other work of the institution are generally allowable.

43. *Trade, business, technical, and professional activity costs.*—(a) *Memberships.*—This category includes costs of memberships in trade, business, technical, and professional organizations. Such costs are allowable.

(b) *Subscriptions.*—This item includes cost of subscriptions to trade, business, professional, or technical periodicals. Such costs are allowable.

(c) *Meetings and conferences.*—This item includes costs of meals, transportation, rental of facilities for meetings, and costs incidental thereto, when the primary purpose of the incurrence of such costs is the dissemination of technical information or stimulation of production. Such costs are allowable.

44. *Training and educational costs.*—(a) The costs of training courses taken by a bona fide employee to acquire basic skills which he should bring to the job or to qualify a person for duties other than those related

(b) Costs of on-the-job training and part-time education, at an undergraduate or postgraduate college level, related to the job requirements of bona fide employees, identified in (1) through (5) below, are allowable.

(1) Training materials;

(2) Textbooks;

(3) Fees charged by the educational institution;

(4) Tuition charged by the educational institution, or in lieu of tuition, instructors' salaries and the related share of indirect cost of the educational institution to the extent that the sum thereof is not in excess of the tuition which would have been paid to the participating educational institution; and

(5) Straight-time compensation of each employee for time spent attending classes during working hours not in excess of 156 hours per year where circumstances do not permit the operation of classes or attendance at classes after regular working hours.

(c) Costs of tuition, fees, training materials and textbooks (but not subsistence, salary, or any other emoluments) in connection with full-time scientific and medical education at a postgraduate (but not undergraduate) college level related to the job requirements of bona fide employees for a total period not to exceed 1 school year for each employee so trained, are allowable when approved in writing by the awarding agency.

(d) Grants to educational or training institutions, including the donation of facilities or other properties, scholarships, or fellowships, are considered contributions and are unallowable.

45. *Transportation costs.*—Transportation costs include freight, express, cartage, and postage charges relating either to goods purchased, in process, or delivered. These costs are allowable. When such costs can readily be identified with the items involved, they may be directly costed as transportation costs or added to the cost of such items (see G 22.).

Where identification with the materials received cannot readily be made, inbound transportation costs may be charged to the appropriate indirect cost accounts if the institution follows a consistent, equitable procedure in this respect. Outbound freight, if reimbursable under the terms of the grant or contract shall be treated as a direct cost.

46. *Travel costs.*—(a) Travel costs include costs of transportation, lodging, subsistence, and incidental expenses, incurred by institution personnel in a travel status while on official business.

(b) Travel costs may be based upon actual costs incurred, or on a per diem or mileage basis in lieu of actual costs, or on a combination of the two, provided the method used does not result in an unreasonable charge. The difference in cost between first-class and less than first-class air accommodations is unallowable except when less than first-class air accommodations are not reasonably available to meet necessary mission requirements, such as where less than first-class accommodations would (1) require circuitous routing, (2) require travel during unreasonable hours, (3) greatly increase the duration of the flight, (4) result in additional costs which would offset the transportation savings, or (5) offer accommodations which are not reasonably adequate for the medical needs of the traveler.

(c) Travel costs incurred in the normal course of overall administration of the business are allowable and shall be treated as indirect costs.

(d) Travel costs directly attributable to specific grant or contract performance are allowable and may be charged to the grant or contract in accordance with the principle or direct costing (see section C).

(e) Costs of personnel movement of a special or mass nature are allowable only when authorized or approved in writing by the sponsoring agency.

(20 U.S.C. 1221c(b)), 31 U.S.C. 628.)

[FR Doc.73-23388 Filed 11-5-73;8:45 am]

# APPENDIX C

# FINANCIAL ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES

federal register

TUESDAY, SEPTEMBER 28, 1976

PART IV:

# DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

## Office of Education

◆

# FINANCIAL ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES TO MEET THE SPECIAL EDUCATIONAL NEEDS OF EDUCATIONALLY DEPRIVED, NEGLECTED AND DELINQUENT CHILDREN

Reorganization

## Title 45—Public Welfare

## CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

## FINANCIAL ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES TO MEET THE SPECIAL EDUCATIONAL NEEDS OF EDUCATIONALLY DEPRIVED AND NEGLECTED AND DELINQUENT CHILDREN

### Reorganization

In accordance with Section 503 of the Education Amendments of 1972 (Pub. L. 92-318) and pursuant to the authority of Title I of the Elementary and Secondary Education Act of 1965, as amended (20 U.S.C. 241a, et seq.), a notice of proposed rulemaking was published in the FEDERAL REGISTER on March 11, 1975, (40 FR 11472) setting forth (a) in proposed 45 CFR Part 116, the general requirements for local and State educational agencies and certain other State agencies for participation in financial assistance provided under Title I of the Elementary and Secondary Education Act, and (b) in proposed 45 CFR Part 116a, specific requirements for the participation in such assistance of local educational agencies having jurisdiction over school districts or similar political subdivisions in their respective States.

Parts 116b, 116c, and 116d will be published separately.

At present there are no guidelines related to Parts 116 or 116a. Should such guidelines be issued in the future, they will be published in the FEDERAL REGISTER and will be limited to material in the nature of suggestions or recommended courses of action for meeting certain mandatory requirements set forth in the regulations.

1. *Program purposes.* Title I of the Elementary and Secondary Education Act, as amended, provides financial assistance to local educational agencies for programs to meet the special educational needs of educationally deprived children in low-income areas; to State agencies to meet the special educational needs of handicapped and neglected or delinquent children; and to State educational agencies for educational programs for migratory children of migratory agricultural workers or of migratory fishermen; and to such agencies for the administration throughout their respective States of financial assistance provided under Title I.

2. *Section 503 procedures and effect.* Section 503 of the Education Amendments of 1972 requires the Commissioner to study all rules, regulations, guidelines, or other published interpretations or orders issued by him or by the Secretary after June 30, 1965, in connection with, or affecting, the administration of Office of Education programs; to report to the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives concerning such study; and to publish in the FEDERAL REGISTER such rules, regulations, guidelines, interpretations, and orders with an opportunity for public hearing on the matters so published. The regulations below reflect the results of this study as it pertains to the program under Title I of the Elementary and Secondary Education Act, as amended. All preceding rules, regulations, guidelines, and other published interpretations and orders issued in connection with or affecting Part 116 will be superseded when this regulation becomes effective.

3. *Effect of Office of Education General Provisions Regulations.* General fiscal and administrative rules for the programs are covered under the overall Office of Education General Provisions Regulations, published in the FEDERAL REGISTER at 38 FR 30654 (November 6, 1973), and now set forth in 45 CFR Parts 100–100c, in connection with the same study under Section 503 of the Education Amendents of 1972 of which this publication is a part. (Reference is made in particular to the provisions of Part 100b of Title 45 CFR, containing general provisions for State administered programs, which would be applicable to the programs under Title I of the Elementary and Secondary Education Act, as amended.)

4. *Reorganization of Part 116.* Part 116 has been limited to those provisions that are applicable to all grantees, including State educational agencies in their administrative capacities, under Title I of the Act. Also, a number of provisions have been deleted and are now incorporated in the Commissioner's general regulations in Part 100b of Title 45. Each of the four new parts contains provisions which are applicable to grantees in one of the four categories specified in the legislation, as follows: 116a—Local educational agencies, 116b—State agencies directly responsible for providing free public education for handicapped children, 116c—State agencies directly responsible for providing free public education for children in institutions for neglected or delinquent children, and 116d—State educational agencies as applicants for grants for educational programs and projects for migratory children of migratory agricultural workers or of migratory fishermen. Under the proposed five-part organization of the regulations, a grantee agency would be able to refer to Part 116 and the appropriate part designated for such agency.

5. *Amendments made by Pub. L. 93–380.* The regulation set forth below reflects and implements amendments made to Title I of the Elementary and Secondary Education Act by Pub. L. 93–380, the Education Amendments of 1974. In particular, the regulation makes conforming changes in, or additions to, the current regulation relating to allocation of funds; participation of children enrolled in private schools; special grants (part C of Title I); comparability; parent advisory committees; designation of project areas; use of funds for training; and other matters affected by Pub. L. 93–380. (Changes in the regulation to conform to Pub. L. 93–380 with regard to State agency programs to meet the special educational needs of handicapped children; neglected or delinquent children; and migratory children of migratory agricultural workers or of migratory fishermen will be published separately as parts 116b, 116c and 116d, respectively.)

6. *Citations of legal authority.* As reqired by section 431(a) of the General Education Provisions Act (20 U.S.C. 1232(a)) and section 503 of the Education Amendments of 1972, a citation of statutory or other legal authority for each section of the regulations has been placed in parentheses on the line following the text of the section.

On occasion, a citation appears at the end of a subdivision of the section. In that case the citation is to all that appears in that section between the citation and the next preceding citation. When the citation appears only at the end of the section, it applies to the entire section.

7. *Opportunity for public comment.* Pursuant to section 503(c) of the Education Amendments of 1972, the Commissioner provided interested parties an opportunity for a public hearing on the proposed regulations on April 10, 1975. The purpose of the hearing was to receive comments and suggestions on the published materials. Additionally, an opportunity was provided to submit written comments and suggestions. Written comments were received from officials in 26 States and 144 local educational agencies, representatives of eight organizations, and numerous individuals. Additionally, informal comments were received at three regional meetings for State administrators and at a national meeting for parents.

8. *Summary of comments and responses.* The following is a summary of pertinent comments relating to the language of the regulations and the responses setting forth changes which have been made in the regulations as a result of the comments, or the reason why no change is deemed necessary. Specific comments are arranged in order of the section of the regulation to which they pertain. Where the section number in the final regulations differs from that in the proposed rule, the proposed rule section number is also identified. Other changes made in the final regulations, not based on comments, appear after the comments and responses for each of the two parts.

### PART 116

§ 116.2 *Definitions.* 1. *Comment.* Most of the comments on this section suggested changes to definitions that were taken directly from the statute.

*Response.* Although no changes could be made to these definitions as mandated by statute, to avoid further confusion, these definitions are now being incorporated by reference in § 116.2(b), rather than being restated or paraphrased. For the added convenience of the reader, the text of the Title I statute is included as an Appendix to the regulation.

2. *Comment.* A few commenters indicated a preference for a definition of "educationally deprived children" modelled on the definition of "educationally disadvantaged children" in section 417(a)(2) of the General Education Provi-

sions Act (GEPA) which provides that for the purpose of the Secretary's Annual Report that term " * * * refers to children who are achieving one or more years behind the achievement expected at the appropriate grade level for such children."

*Response.* The requested change was not adopted. Although the definition in section 417(a)(2) of GEPA could have been adopted for use for children in regular school programs above grade 2, the below grade level standard it imposes would not have been suitable for the participation of preschool children, handicapped children, and children in institutions for neglected or delinquent children. Therefore, rather than having different standards for each type of child, the standard of "educational attainment . . . appropriate for children of their age . . . ." which has the widest applicability to children served by local educational agencies (LEA) under Title I, was maintained. Since the definition of "educationally deprived children" only applies to the local educational agency program, it has been transferred to § 116a.2 of the regulation.

§ 116.3 *Participation of States—Comment.* Several commenters on this section requested more specificity in the content of the annual program plan.

*Response.* Since there is no intent at this time to add regulatory requirements to those applicable in Section 142 of the Title I statute and Section 434 of GEPA and Parts 100 and 100b of this chapter, no further specifications were added.

§ 116.4 *State administration and technical assistance—Comment.* Three commenters raised questions concerning whether the unused amounts of a State's allocation for State administration at the end of the period of availability of funds could be used for program purposes.

*Response.* No change was made in the regulations. Such allocations are available only for the proper and efficient administration of programs under Title I. The statute makes no provision for the reallocation of these funds to other agencies. Therefore, unused amounts from such allocations revert to the U.S. Treasury.

§ 116.5 *Approval by the State educational agency of applications from applicant agencies.* (Proposed § 116.6)—1. *Comment.* With respect to proposed paragraph (b), "Notice and opportunity for hearing," one commenter asked that the regulations require the State educational agency to inform the local educational agency of the reasons for which an application has been disapproved.

*Response.* This paragraph, now designated as (c), has been revised to incorporate such a provision.

2. *Comment.* With respect to proposed paragraph (d), "Availability to the public," two commenters recommended that parties interested in reviewing documents related to a project be required to request such documents from the local educational agencies before requesting such documents from the State educational agency.

*Response.* This requested change was not adopted. It was beileved to be in the best interests of the general public information requirements of Title I and GEPA to allow interested parties the greatest amount of flexibility to obtain relevant information. Such parties may choose, for reasons of their own, such as the time and expense involved or the nature of their request, to contact the State educational agency rather than local educational agencies (and other applicant agencies).

§ 116.6 *Review and complaint procedures.* (Part of proposed § 116.7(b))—*Comment.* In general, with respect to complaints, a few commenters stated that the complaint procedures were difficult to find as part of the section on "Reports by State educational agencies," and recommended that a new separate section on complaint procedures be added. Some of these commenters suggested that this new section contain requirements that the State educational agency set up complaint procedures and submit them to the Commissioner within 120 days of the publication of this final regulation. It was requested that such procedures include:

(a) Provision of a hearing within thirty days of the filing of the complaint;

(b) An opportunity for the complainant to review or comment on the report filed by the applicant agency before the final disposition of the complaint; and

(c) The written communication of the disposition of the complaint and the basis for such disposition to the complainant within ninety days of the filing of the complaint.

*Response.* A new separate section requiring the establishment of complaint procedures has been set up as recommended. However, it was believed to be unnecessary to require the State educational agency to submit the procedures to the Commissioner, and therefore, in the interests of not requiring additional submissions, this suggestion was not adopted. Additionally, rather than requiring that a hearing be provided to every complainant, the State educational agency is only required to give the complainant the opportunity to present evidence. It was believed that the State educational agency should be given some flexibility in determining the manner in which such evidence is to be presented. The State educational agency may, of course, decide that, in a particular case, a hearing is necessary.

§ 116.7 *Reports by State educational agencies.*—1. *Comment.* A few commenters on paragraph (a), "Annual evaluation reports," stated that, the forthcoming change in the dates of the fiscal year as set forth in Pub. L. 93-344, whereby a fiscal year will run from October 1 to September 30 rather than July 1 to June 30 (beginning with fiscal year 1977) may make it impossible to prepare evaluation reports by November 15.

*Response.* The section has been revised to indicate that the evaluation report, as always, covers the usual period of a Title I program, the period from the beginning of the preceding regular school term through the end of summer following that term and, therefore, is not affected by the change in fiscal year. Consequently, the new fiscal year will not change the reporting period for the State evaluations. It should be noted that, in accordance with Section 151(g) of the Act, the Commissioner is required, no later than January 31 of each year, to report the results of the evaluations of Title I programs to the Congress, and therefore, in order to meet this requirement, the Commissioner must have the reports of the State educational agency by November 15.

2. *Comment.* Several commenters suggested that the State reports concerning complaints as set forth in paragraph (b), which are submitted to the Commissioner, also be furnished automatically to the complainant and the local educational agency.

*Response.* These comments are reflected in the last subparagraph of § 116.7. It should also be noted that, in accordance with § 116.45, any member of the public may request such reports from the applicant agency.

3. *Comment.* A commenter suggested that the State educational agency furnish the Commissioner with copies of any formal reports by an applicant agency concerning a complaint.

*Response.* This suggestion was not adopted. The regulatory provision requires that the State educational agency submit a report to the Commissioner which gives a summary of results of the investigation of a complaint and any hearings held concerning the allegation, and a statement of the disposition of the matter, and the reasons for the disposition. It does not seem necessary for the Commissioner to carry out his or her responsibilities to require initially reports by an applicant agency in every complaint. Of course, if the State educational agency's report is not sufficient, the Commissioner may request further information, including the report of the applicant agency.

4. *Comment.* Several commenters indicated the need for well defined deadlines applying to the handling of complaints and submitting of reports to the Commissioner by the State educational agency.

*Response.* The report section now includes a requirement that if a complaint cannot be handled within sixty days from the filing of the complaint, an interim report should be filed by the State educational agency with the Commissioner, explaining the status of the matter.

§ 116.19 *Maintenance of effort—Comment.* Two commenters raised questions as to whether the maintenance of effort requirement applied to private schools.

*Response.* No change was made in the regulations. The expenditures of private schools enrolling children participating in the Title I program are not included in the requirement of § 116.19, because such expenditures are not part of the "combined fiscal effort * * * of that (local educational) agency and the State with respect to the provision of free public education by that agency * * *," (emphasis supplied) as set forth in Section 143(c)(2) of the Act.

§ 116.30 *Planning grants.* (Proposed § 116.39)—*Comment.* A few commenters asked for clarification concerning the source of funds for planning grants.

*Response.* No change was made in the regulation. Any funds requested for a planning grant must be taken from the applicant agency's allocation. Planning expenditures are listed in Section 141(a)(1) of the Act as allowable expenditures along with other expenditures which come out of an applicant agency's Title I allocation. Additionally, the funds available for planning for any fiscal year which is set forth in Section 141(a)(1) of the Act, is limited by the size of the agency's allocation for that fiscal year.

§ 116.32 *Construction and equipment.* (Proposed § 116.38)—*Comment.* Several commenters wanted a more definitive treatment of the criteria to justify the use of Title I funds for construction or equipment.

*Response.* No change was adopted. Because of the varied nature of the projects, it would be difficult if not counterproductive to supply specific criteria. The first sentence of paragraph (a), contains a generally applicable standard that the acquisition of equipment and construction are allowable when such equipment or construction "is demonstrated as being essential to the success of a program or project under Title I of the Act." Any request for construction or equipment is an assertion by the applicant agency that the project cannot be accomplished with existing school facilities or equipment. Such a determination can be made initially on a case-by-case basis by the State educational agency which may request whatever information is necessary from the applicant agency to demonstrate that facilities other than those acquired with Title I funds are not available for use in its proposed project.

§ 116.33 *Reimbursement for expenses incurred by parent council members and volunteers.* (Proposed § 116.40)—1. *Comment.* Two commenters suggested that Title I funds be used to compensate council members or volunteers for loss of salary or wages.

*Response.* No change was made in the regulations. The general standards for allowable costs as set forth in Appendix B which applies to Title I through Part 100b of this chapter (see 45 CFR 100b.81), are that the costs "be necessary and reasonable" to the proper administration of the grant program. In only the most limited circumstances would the compensation of a council member be allowable as necessary to the operation of the council, and not subject to an audit exception. This matter would ultimately have to be judged on a case-by-case basis. The compensation of a volunteer is not consistent with the status of a volunteer

2. *Comment.* Five commenters asked for clarification concerning the types of expenditures allowable under this section.

*Response.* No change was made in the regulations. Further specification in the regulations is considered inappropriate because it would be too restrictive to try to anticipate the numerous ways in which this question would arise. State educational agencies in reviewing project applications must determine on a case-by-case basis that the proposed activities for parent councils and volunteers are appropriate, likely to be effective, and are set forth in sufficient detail to determine whether the expenses incurred will be within the scope of the approved project. Guidance in general is provided in the cost principles contained in Appendix B to Part 100b of this chapter which states that the costs must be "necessary and reasonable for proper and efficient administration of the grant program."

§ 116.34 *Education aides.* (Proposed § 116.32)—*Comment.* Some commenters wished to have the required training directed to the aides and not to the professional staff they assist.

*Response.* No change has been made in the regulations. This section is taken directly from the statute, section 141(a)(12), which requires joint participation of both aides and professional staff when a title I project includes aides. Both professional staff and education aides may, of course, also receive separate training in accordance with the provisions of § 116.36, "Training."

§ 116.36 *Training.* (Proposed § 116.42)—*Comment.* Several commenters expressed concern that paragraph (b), "Supplementary training for specialists and classroom teachers," in the proposed § 116.42 might lead to widespread use of Title I funds for training that is not directly related to Title I programs.

*Response.* Appropriate changes have been made in the regulations to indicate more clearly that all training provided with Title I funds must directly relate to the Title I services provided to educationally deprived children and to the objectives of the Title I program serving such children.

§ 116.40 *Title I funds supplementary to State and local funds.* (Proposed § 116.30)—1. *Comment.* One commenter pointed out that the reference in subparagraph (a)(1), "General," to a project area was inappropriate since the paragraph is applicable not only to local educational agencies that have project areas, but also to State agencies that do not have such areas.

*Response.* The reference to project areas has been deleted.

2. *Comment.* Several commenters expressed concern about, or requested clarification of the term "ordinarily provided" as it was used in subparagraph (a)(2), particularly as it applied to State and locally funded compensatory programs.

*Response.* The clause containing this term was deleted. Since other provisions of the regulations clearly indicate that services generally provided for all children are not to be paid for from Title I funds there is no need for this clause. A similar provision has been inserted in § 116a.22(b)(10), and modified to address the issue of the use of Title I funds by local educational agencies when State and local funds are being used for purposes that are similar to those of Title I.

3. *Comment.* Several commenters disagreed with the prohibition in paragraph (b), "Services which applicant is required to provide," against using Title I funds to provide educational services in programs which are required by State law or by other Federal laws. The commenters felt that if Federal law or a court order required certain services, Title I funds ought to be made available to provide such services.

*Response.* No change was made. The prohibition in this paragraph, which is an application of the "supplement not supplant" concept, presumes that where the applicant is required by statutes or court order to provide certain services, such services would be provided in the absence of Title I funds. If a program mandated by State or Federal law receives sufficient State and local funding to meet the requirements of the appropriate law, then Title I money can be used to supplement the services available from such funding.

§ 116.41 *Relation of Title I projects to other programs.* (Proposed § 116.31)—*Comment.* Some commenters wanted a specific reference to community action agencies in paragraph (a) to make it clear that such agencies have an advisory role in reviewing an application.

*Response.* No change has been made. There is no basis in the statute for a regulation requiring a specific type of agency to be involved in the coordination and review process. Contrary to the assumptions made by several of these commenters, the statutory provision after which this section was modeled, section 803(c) of the Elementary and Secondary Education Act, does not require that any such agency have an advisory role in the development of Title I programs. Such agencies are, of course, considered to be among those which may be able to provide services that meet some of the needs of educationally deprived children and such agencies are among those whose review of the application would therefore be relevant. Each local educational agency is expected to avoid using Title I funds for services that could be supplied by another agency, including a community action agency.

§ 116.43 *Measurement of educational achievement and evaluation of programs.* (Proposed § 116.33)—*Comment.* Several commenters wanted to know whether the evaluation of educational achievement among private school children participating in a Title I program as set forth in paragraph (c) was the responsibility of the private school or the applicant agency.

*Response.* No further change was made in the regulations. The applicant agency as the grantee, must ensure that an evaluation of all projects serving Title I children, including those attending private schools, is conducted at least annually, consistent with Section 141(a)(6) of the Act.

§ 116.44 *Dissemination and utilization of results of educational research and demonstrations.* (Proposed § 116.34)—*Comment.* A few commenters suggested that this section, which provides for the dissemination of certain research information to teachers and administrators, be amended to include not only teachers and administrators but also parent council members in local educational agency programs.

*Response.* No change has been made in the regulation. This provision tracks the statutory provision in Section 141(a)(10) of the Act, which is written in general terms. It is expected that the specific training programs for local educational agency parent council members covered by § 116.36, "Training," would include the dissemination of appropriate research information. Additionally, such materials would be available to parent council members in local educational programs in accordance with § 116a.25(g).

§ 116.45 *Public information.* (Proposed § 116.35)—*Comment.* Five commenters wanted clarification on how long a local educational agency is required to keep information on Title I programs.

*Response.* To address these comments, a new sentence has been added to the regulations to specify that such information must be made available for five years after the completion of a Title I program or project or, in the case of an audit, until the resolution of such audit in accordance with Section 434(a) of the General Education Provisions Act.

### OTHER CHANGES IN PART 116

1. Several typographical and technical corrections have been made and certain sections have been reorganized or renumbered.

2. A definition of "child or children" has been added to § 116.2(a) to conform to program administration.

3. A definition of "applicant agency" has been added in § 116.2 to simplify references to grantee agencies in Part 116.

4. Definitions in § 116.2 which were taken from the statute, have been eliminated and replaced by a cross reference to the statutory provisions. It should be noted that the text of the statute is attached.

5. In § 116.3(a), the assurances to be provided in the Annual Program Plan have been deleted and replaced by a cross reference to the statutory provisions.

6. In § 116.4(b), the specific amount of administrative funds has been deleted, and the statutory provision incorporated by reference.

7. A new paragraph (b) has been added to incorporate language in previous Title I regulations (before the publication of the General Provisions Regulations in Part 100 of the Chapter), which makes the effective date of an appplication the date on which the State educational agencies receives it in substantially approvable form. This provision, inadvertently removed from the Title I regulations, is consistent with the general rule for effective dates in § 100b.35 of this Chapter.

8. Section 116.5(c) adds a requirement that the notice of a decision from the review of an application given the applicant agency by the State educational agency, include the reasons for the proposed disapproval, in accordance with Section 425 of General Education Provisions Act.

9. The second sentence of § 116.7(a), concerning the content of State evaluation reports, was deleted pending the results of a study on uniform State evaluation models which is now being conducted by the Office of Education in accordance with Section 151(d) of the Act. Until the results of the studies are available, it is suggested that the evaluations include information on the types of educational and supportive services provided, parental involvement, the participation of public and private school children, the number and categories of staff employed, the nature and extent of the inservice training provided, a summary of the results of objective measurements of changes in the educational attainment of educationally deprived children who participated in programs and projects, and the results of research and replication studies conducted in the State pertaining to programs for educationally deprived children.

10. The last phrase of § 116.18, prohibiting Title I funds from being considered in the determination of State aid, has been reworded to clarify that Title I funds cannot be considered in such a way as to penalize an applicant agency in the amount of State aid it receives. This change would permit applicant agencies to be eligible for and receive additional State funds on the basis of their Title I eligibility.

11. A new paragraph (e) in § 116.19 clarifies the effect of the maintenance of effort provision on an applicant agency which derives ninety-five percent or more of its funds for education from Federal sources. Such agency will not be required to show maintenance of effort of State and local funds under this section.

12. Section 116.41(c) emphasizes that funds currently available through State and local categorical programs which are appropriate for funding components of the Title I programs must be utilized, rather than Title I funds.

13. Consistent with Section 141(b) of the Act, a new § 116.47, "Individualized educational plans" (formerly § 116a.22), has been added to Part 116 to apply to all Title I programs.

14. A new § 116.48, "Operational responsibilities" clarifies that the approval of an application does not relieve the applicant agency of the responsibility to carry out the Title I program in accordance with statutory and regulatory requirements.

### PART 116a

§ 116a.1 *Applicability — Comment.* Commenters on paragraph (a), "Regulations for local educational agencies," suggested that it be reworded in line with the statutory requirement that Title I programs and projects be provided for educationally deprived children in school attendance areas with high concentrations of children from low-income families.

*Response.* This recommended change was adopted and the statutory language is being utilized.

§ 116a.5 *Allocation of county aggregate grants by State educational agencies*—1. *Comment.* Three commenters raised questions whether local educational agencies are required to provide Title I services for children in local institutions for neglected or delinquent children.

*Response.* The last sentence of paragraph (b) has been clarified to indicate that if a local educational agency receives an allocation based partially or wholly on the number of such children in accordance with Section 103(c)(1)(C) of the Act, then Title I services must be provided for them. If an approvable Title I program is not provided for such children by the local educational agency receiving the allocation based on such children, the State educational agency shall either assume the responsibility or find another agency to provide the services using that portion of the grant that was based on the number of such children, as is specified in Section 103(a)(3)(A) of the Act. If such services are not provided, then the funds attributable to such children are not available for other purposes and revert to the U.S. Treasury.

2. *Comment.* Commenters noted that the 1970 census data do not reflect the most current distribution of children from low-income families for the purposes of subcounty allocations, and that modifications should be made accordingly.

*Response.* Appropriate changes have been made. Paragraph (c), "Allocation of remainder of county grant," has been reworded to permit, but not require, the State educational agency to choose data other than the 1970 census, as the current data, as long as it is consistent with the purposes of Title I of the Act and approved by the Commissioner. The paragraph also now indicates the types of data considered acceptable.

§ 116a.10 *Further assistance to certain local educational agencies—Comment.* The commenters on this section were of the opinion that it departed from the intent of the statute (Section 101(a)(10) of Pub. L. 93-380), which is to raise the allocations of those local educational agencies which were held down to or raised to 85 percent of their previous year's allocations.

*Response.* This section has been revised to indicate that all such agencies would have their allocations raised to 90 percent of their previous year's funding. It should be noted that implementation of this section requires a separate Congressional appropriation.

116a.19 *Project applications—Comment.* Comments on this section were directed at the provision for the participation of children residing outside the project area with recommendations that it be deleted, because the need for Title I services within areas designated for projects is so great that the provision is unnecessary and counterproductive.

*Response.* This provision has been deleted. However, the authorization to serve educationally deprived children who reside outside of a project area has been rewritten for added clarity and is included in § 116a.22(b)(9), "Project description, size, scope, and quality." The added criteria in this provision are to further ensure that such children can only be included when their participation does not impair the effectiveness of the project for eligible children residing in the project areas, nor increase the cost of the project. It should be remembered that, even if the inclusion of children residing outside of the project areas meets these criteria, the local educational agency has the discretion to not serve such children.

§ 116a.20 *Selection of Title I attendance areas*—1. *Comment.* A number of commenters questioned the continuation of the requirement that Title I projects be located in areas with above-average concentrations of children from low-income families, suggesting that it be deleted.

*Response.* This requirement has been retained. Section 141(a)(1)(A) of the Act states that Title I funds be used for programs which are designed to meet the needs of "educationally deprived children in school attendance areas having high concentrations of children from low-income families." The regulatory requirement questioned is a reasonable interpretation of "high concentrations." Administrative experience indicates that such a requirement is a necessary one. Congress, in the legislative history to the Education Amendments of 1969 (Pub. L. 91-230) (Sen. Rept. No. 91-634, p. 9 (1970)), recognized that the selection and the use of Title I funds in proper project areas was an issue in which special Federal guidance and supervision was needed.

2. *Comment.* (a) Several commenters noted the change in paragraph (b)(2), "Eligibility of attendance areas," which designates project areas as school attendance areas in which 30 percent of the children are from low-income families. Some of those commenters said the provision should be deleted, since it gives the local educational agencies too much discretion.

(b) Others asked that the determination of the number of children from low-income families for this purpose be made on the basis of a more current criterion of poverty than that used in the latest Decennial Census.

*Response.* (a) The "30 percent" rule has been retained. This provision is consistent with the legislative history expressed in the House Report for the Education Amendments of 1974 (Pub. L. 93-380) (see House Rept. No. 93-805, pp. 16-17 (1974)) and in the legislative history to the Elementary and Secondary Education Amendments of 1966 (Pub. L. 89-750) (see House Rept. No. 1814, p. 3 (1966)).

(b) A new sentence has been added to the end of § 116a.20(b)(2) requiring that a determination of 30 percent incidence of poverty be made on the basis of data showing the eligibility of children to receive free lunches under the National School Lunch Act. School lunch data are the most current and most accessible data available for application to this provision.

3. *Comment.* Many commenters requested the addition of a specific provision for determining the eligibility of attendance areas on the basis of separate averages and separate rankings for elementary, middle or junior high, and high schools. For example, a local educational agency with one high school or an agency with several overlapping attendance areas for different grade spans could be prevented from providing Title I services to the children it considered most in need if only one district-wide average were used.

*Response.* Appropriate provisions have been added in a new subparagraph (b)(5) so that local educational agencies have greater discretion to select areas with high concentrations of children from low-income families and may, at their option, use separate averages and separate rankings by grade span in the selection of areas for projects.

4. *Comment.* A few commenters stated they considered the provision in paragraph (d), "Districts with no wide variance in the incidence of poverty," for determining whether a district has "no wide variance" in the number of children from low-income families (so a district-wide program could be conducted) to be too strict. The commenters recommended that the permissible variance based on one-third of the district-wide percentage be increased to one-half of that percentage, or that such variance be a fixed percentage regardless of the district-wide average. Several commenters approved of the one-third standard and requested that it be maintained.

*Response.* No change has been made in the regulations. The legislative history of Pub. L. 89-10, the Elementary and Secondary Education Act of 1965, which established Title I, indicated that only in limited circumstances may a whole school district be considered eligible as a "low-income area." (See Sen. Rept. No. 146, p. 9 (1965)). A further broadening of the "no-wide variance" standard would be inconsistent with this history, and with the requirement in Section 141(a)(1) that the areas selected have "high concentrations of children from low-income families."

§ 116a.21 *Needs assessment*—1. *Comment.* Of the many commenters on this section, several stated that a comprehensive needs assessment every year in accordance with paragraph (c) is unnecessary. Conversely, other commenters asked that the section on needs assessment be expanded to give more guidance on the information and analysis of the data necessary for an adequate needs assessment.

*Response.* As a result of these comments, this section has been extensively revised to give greater clarity on information to be gathered, and steps to be undertaken to use this data. Paragraphs on "Diagnostic Procedures" and "Consultation" have been added. Where feasible, the use of existing data is authorized, to ease the annual data-gathering burden on the local educational agencies. However, since eligible attendance areas may change every year, and annual evaluations required by the statute must be examined to make appropriate changes to the project, some data will probably need to be collected every year.

2. *Comment.* Some commenters felt that the emphasis on reading and mathematics was too restrictive and should be eliminated, while others felt it to be justified and suggested it be kept.

*Response.* Because of the disparity of viewpoints expressed, this emphasis has been altered in paragraph (a) to allow the local educational agencies more flexibility in performing their needs assessments. The provision in question is written in terms of giving emphasis to "the agency's basic programs of instruction."

3. *Comment.* Some commenters expressed the need for a requirement for objective needs measurement and the listing of specifications for such measures.

*Response.* No change was made in the regulations. Because of the disparity of viewpoints in this field, this area was felt better left to the expertise of the particular local educational agencies. The publication of guidelines on this subject in the FEDERAL REGISTER is being considered.

Whether or not a particular needs assessment is adequate to determine the needs for a particular project must be made on a case-by-case basis.

4. *Comment.* Several commenters felt that the term "dropout" was ambiguous and should be replaced by words which would more effectively refer to school age children not receiving an education.

*Response.* An appropriate change was made in paragraph (a) to include "children of school age not enrolled in a school."

5. *Comment.* Several commenters asked for a clarification of the requirement in the proposed § 116a.22(b) that only educationally deprived children be served who have the greatest need. These commenters suggested that a provision be added to give local educational agencies the discretion to also serve children residing in a project area who were served in the Title I project in the previous year who had made educational gains, and were no longer the children with the greatest need but who were still performing below the level appropriate for their age level.

*Response.* An appropriate addition was made in § 116a.21(e) to give local educational agencies the discretion to serve such children.

§ 116a.22 *Project description, size, scope, and quality.* 1. *Comment.* Some general comments submitted on § 116a.22 indicated that former paragraphs (b), "Children to be served," and (c)(1), "Needs to be served," should be clarified as they relate to each other and to § 116a.21, "Needs assessment."

*Response.* Accordingly, § 116a.22 has been rewritten to be more internally consistent and to provide a clearer indication of the relationship of Title I services to the educational needs of children identified in § 116a.21. Paragraph (a), "Project description," brings together requirements previously scattered throughout § 116a.22, which indicate what information should be in a local educational agency's project application. Paragraph (b) sets forth the standards by which the State educational agency will examine this data.

2. *Comment.* Several commenters protested the inclusion of proposed subparagraph (c)(2) which would make it clear that Title I services may be offered in the presence of non-participating children. These commenters objected that this subparagraph might be interpreted as allowing the use of Title I funds for the general aid of the school.

*Response.* A revision has been adopted in subparagraph (b)(8) to make it clear that, while Title I services may be provided for identified children in their regular classrooms or in other similar settings with other children present, Title I services must be directed only to the selected Title I eligible children.

3. *Comment.* A recommendation was made that in the proposed paragraph (d), "Size, scope, and quality," a reference to prior program evaluations be included as a basis for determining size, scope, and quality of the proposed programs.

*Response.* No change was made to this section. Prior program evaluations are to be taken into account in the needs assessment as specified by § 116a.21(a), and, therefore, are a part of the project design. These evaluations may also be used in determining the appropriate size, scope, and quality of the project, but it is left to the discretion of local educational agencies and State educational agencies as to whether it is actually to be used in the manner suggested.

4. *Comment.* A number of commenters objected to the last sentence of the proposed paragraph (d) requiring a justification for any Title I expenditures above the level normally expended by the local educational agency for any "comparable activities." They objected on the grounds [illegible] I funds are not to be used in any event for "comparable activities," which are paid for by State and local funds.

*Response.* The sentence has been deleted. It was intended to ensure that the levels of expenditure for personnel or materials for Title I activities are comparable to expenditures made by the local educational agency from State and local funds. However, its purpose is also covered by the preceding sentence concerning extravagant or imprudent expenditures, and the "supplement, not supplant" requirements of § 116.40.

§ 116a.23 *Participation by children enrolled in private schools.* 1. *Comment.* Two commenters were opposed to providing any services to non-public school children.

*Response.* No change was made in the regulation. This provision is derived directly from Sections 141(a)(2) and 141A of Title I.

2. *Comment.* Two commenters suggested that a precise definition of private schools be added to the Title I regulations.

*Response.* No such addition has been made. Any private elementary and secondary school as defined in Section 100.1 of this Chapter may be considered to be a private school for Title I purposes.

3. *Comment.* A high proportion of commenters on this section stated that the words "* * * therapeutic, remedial, or welfare services, health services, school breakfast for poor children and guidance counseling services * * *" used in paragraph (f), "Limitations on availability of services in other than public school facilities," may be misleading and in conflict with the requirements of the sections on "Needs assessment" and "Project design" because they place an undue emphasis on non-instructional services.

*Response.* No changes have been made. These illustrations are taken from the passages of the legislative history of Pub. L. 89–10 (Sen. Rept. No. 146, p. 12 (1965)), which form the basis for the provisions in question.

4. *Comment.* Many of the same commenters referred to in item 3 above also objected, for similar reasons, to the use of the words "dual enrollment, educational radio and television, and mobile educational services and equipment," in paragraph (a), "General requirements."

*Response.* These words are found in Section 141A(a) of the Act and have been retained.

5. *Comment.* Many commenters found the phrase in paragraph (a) "* * * a geographical area reasonably coterminous with the project area," to ambiguous and requested that it be clarified or deleted.

*Response.* The phrase has been deleted from the regulations. It was intended to apply primarily to Title I programs being conducted at private schools which serve children, nearly all of whom are from the project areas but with a few children residing just outside the project area, but the words "a geographical area, reasonably coterminous" were difficult to apply. Paragraph (9) of § 116a.22(b), "Size, scope, and quality," however, does provide for the participation of educationally deprived children not residing in eligible attendance areas, if such participation meets certain requirements including that it does not impair the effectiveness of the program for the participating children from the project areas for whom the project was designed.

6. *Comment.* Two commenters wanted paragraph (b) to provide that the local educational agency consult with official designees of private schools, rather than "persons knowledgeable" of the needs of private schools in making a determination of the special educational needs of private school children.

*Response.* No change was made in the regulations. The local educational agency is the grantee and is required by Section 141(a)(3) of the Act to maintain public supervision and control, and it was believed appropriate to give it flexibility to determine the appropriate persons to consult who are knowledgeable of the needs for Title I services by eligible private school children.

7. *Comment.* Two commenters requested that paragraph (d) be changed so that the local educational agency would be permitted to provide an assurance, rather than specific information, that it had conducted a needs assessment for private school children.

*Response.* No change was made to reflect this comment. The statute in Section 141(a) requires that Title I services be designed to meet the special educational needs of educationally deprived children in eligible areas, whether they be enrolled in public or private schools. To determine this, a needs assessment must be conducted for all such children and sufficient information put in a local educational agency's application to enable the State agency to determine that an adequate needs assessment was undertaken. To meet the requirement of "participation on an equitable basis for eligible private school children" in accordance with Section 141A of the Act, an equitable needs assessment and similar data would have to be presented for private school children as well as public school children and other types of children as indicated in § 116a.21(a).

8. *Comment.* Several commenters stated that the regulations should require that instruction in the basic skills be provided to private school children selected to participate in the project.

*Response.* Paragraph (d), "Design of projects," in § 116a.23 has been revised to incorporate by reference the requirements of § 116a.21 concerning needs assessment which requires in paragraph (a) that data on performance in the basic programs of instruction be considered for all children.

§ 116a.23–1 *Participation by children enrolled in private schools*—1. *Comment.* Several commenters noted the use of the term "equitable basis" in paragraph (c) and asked that it be amplified.

*Response.* No change was made in the regulations. The term is taken from Section 141A(b)(2) which speaks of a local educational agency that "* * * has substantially failed to provide for the participation on an equitable basis of educationally deprived children enrolled in private elementary and secondary schools * * *" General guidance for determining whether this provision is met is given in paragraphs (a), (b), and (c) of § 116a.23. As set forth in paragraph (c) of that section, a child enrolled in a private school who is selected to participate in a Title I program because of his or her special educational needs must receive Title I services that are "comparable in quality, scope, and opportunity for participation to those provided to public school children with needs of equally high priority." Beyond this, delineation of the standard is properly left to case by case determination.

2. *Comment.* A few commenters asked whether a State educational agency's entitlement to funds for the administration of the Title I program in its State under Section 143(b) of the Act would be decreased in the event that the Commissioner of Education withdrew a portion of the allocation for local educational agencies for the purposes of pro-

viding services for private school children in accordance with Section 141A of the Act.

*Response.* A clarifying statement has been added to § 116a.23-1(d) which indicates that a proportionate amount of State administrative funds may be deducted for this purpose except that no State may receive less than $150,000 in accordance with Section 143(b) of Title I. Section 141A(b)(3) provides that the arrangements necessary may be paid "from the appropriate allocation or allocations." Additionally, since Section 143 (b)(1) of Title I requires the allocation to State educational agencies of "* * * 1 per centum of the amount allocated to the State and its local educational agencies," the withdrawal by the Commissioner of a portion of the allocations to one or more local educational agencies in a State would result in the reduction of the State's allocation under that section and a reduction in its administrative responsibilities.

3. *Comment.* Two commenters asked for clarification as to whether the State educational agency could have the authority to review any contracts the Commissioner may enter into as a result of exercising the by-pass provisions.

*Response.* While no change has been made in the regulations, it should be noted that, as stated in Section 141A(b) (3) of the Act, "When the Commissioner arranges for services pursuant to this section, he shall, after consultation with appropriate public and private school officials, pay the cost of such services from the appropriate allocation or allocations under this title." Officials of the State educational agency would be considered among the "appropriate public school officials" for this purpose.

§ 116.25 *Parent advisory councils*—1. *Comment.* A large number of commenters were opposed to the establishment of parent advisory councils at the school level, or were opposed to school advisory councils for small school districts or for schools receiving small Title I grants. The suggested definitions of a small grant ranged from $10,000 to $100,000 and the suggested levels for small school districts ranged from 3,000 to 10,000 enrolled students.

*Response.* No change has been made as a result of these comments. The requirement that there be councils at every school served is stated in Section 141(a) (14) of the Act. The regulations permit a local educational agency with less than 1,000 children enrolled in all project schools to have the district advisory council also serve as the council for each of its schools.

2. *Comment.* Three commenters suggested that the regulations mandate State parent advisory councils.

*Response.* Unlike other Federal programs in elementary and secondary education, there is no requirement in Title I of the Act for a State advisory council. Moreover, the nature of the Title I program is such that it would not be appropriate to require State advisory councils in order to increase the effectiveness of local programs. A State educational agency, is free to form a State parent advisory council if it finds such a council would increase the effectiveness of its administration of the Title I program.

3. *Comment.* One commenter wanted the State educational agency, in conjunction with appropriate consumer groups, to develop a specific list of required activities to be carried out by each parent advisory council.

*Response.* No change was made in the regulations. Paragraph (g), "Involvement of councils," already gives guidance as to the type of activities in which parent councils are to be engaged, consistent with Section 141(a)(14)(C) of the Act. In addition, paragraph (h), "Additional rules and procedures," permits the State educational agency to issue additional rules and procedures, not inconsistent with the regulations, which may be necessary to ensure the proper functioning of the parent councils. However, it is left to the discretion of the State agency as to whether such additional rules and procedures are adopted.

4. *Comment.* Eleven commenters wanted the regulations to restrict participation in selection of parent advisory council members to only those parents whose children were eligible to receive Title I services in a particular attendance area.

*Response.* No change has been made in the regulations. The current regulations regarding selection are taken directly from Section 141(a)(14)(B) of the Act which states that parent advisory council members must be "selected by the parents in each school attendance area." To further restrict the selection process would be inconsistent with Section 421 (c)(2)(B) of the General Education Provisions Act.

5. *Comment.* Many commenters were concerned about the powers and authority of the parent advisory councils. Some commenters wanted the councils to have a "sign off" authority on the local educational agency's application. Other commenters strongly urged that the councils not be given such a "sign off" responsibility.

*Response.* No change has been made in the regulations. In accordance with Section 141(a)(14)(C), the councils have only an advisory function; they do not have the power to prevent the submission of an application by refusing to "sign off." However, since Section 141(a)(14) (C) of the Act requires the local educational agency to give the parent councils in its district "responsibility for advising it in the planning for, and the implementation and evaluation of * * * programs and projects," the local educational agency must insure that it has the advice of its councils on the application and on major decisions affecting the operation of such programs and projects.

6. *Comment.* Six commenters were concerned about the length of time for which the local educational agency is responsible for furnishing prior applications and evaluations of Title I projects. The commenters felt that the local educational agency should not be required to furnish all past applications and evaluations, some of which are ten years old.

*Response.* A reference to the availability of information requirements in § 116.45 has been added to subparagraph (g)(2) to indicate that such information has to be kept available for only 5 years after the completion of the relevant Title I project or until an impending audit has been completed and resolved.

7. *Comment.* Another commenter felt that the requirement to provide the advisory councils with relevant information and documents was already accomplished in proposed § 116.35, "Public information," and should not be repeated in § 116a.25.

*Response.* Paragraph (g) containing the requirements for the provision of information to councils has been streamlined and replaced by more general standards and a cross-reference to the "Public information" paragraph in § 116.45. However, because of the unique and important role of councils, the council members must be automatically furnished with certain specified documents, such as copies of the complete Title I statute and regulations, and the council must be furnished with the local educational agency's current application.

8. *Comment.* Several commenters wanted each council member to receive relevant information and documents rather than each advisory council, and recommended that paragraph (g) be revised accordingly.

*Response.* Subparagraph (g)(1) has been revised to indicate that several important documents must be provided to each council member. In order to assure effective participation by all the council members, each member will receive a copy of Title I of the Act, and the Federal and State regulations and guidelines. Copies of the other appropriate materials, such as the project application and periodic reports, which are issued frequently and tend to be lengthy, are to be furnished to each advisory council rather than each member.

9. *Comment.* Several commenters urged that parents employed by the local educational agency not be counted as part of the majority that are required to be parents of children to be served and that the regulations be amended accordingly.

*Response.* No change was made in the regulations. At this time, it is felt that this type of provision is best left to local discretion.

10. *Comment.* Four commenters were concerned about releasing the names of Title I parents for the purpose of having such parents considered for selection to parent councils. The commenters felt strongly that the confidentiality of the parents' names had to be maintained until and unless an individual parent consented to be identified.

*Response.* While this safeguard was already specified in the proposed paragraph (c), a new sentence was added in paragraph (c) to emphasize the principle of confidentiality with respect to parents eligible to serve on advisory councils.

11. *Comment.* Two commenters sought clarification as to the exact date when the local educational agencies

would be required to establish school advisory councils.

*Response*. No change was made in the regulations. Pub. L. 93–380, which requires school advisory councils, was enacted on August 21, 1974, and the requirement to establish school advisory councils was effective sixty days after the enactment (see Section 2(c) of Pub. L. 93–380). The local educational agencies were required, therefore, to form school advisory councils as soon as possible after the effective date.

12. *Comment*. Three commenters wanted the local educational agency to provide an assurance in its application that it was in compliance with the provisions of paragraphs (a) and (g) establishing parent councils rather than demonstrate in the application that it was in compliance with such provisions.

*Response*. No change was made in the regulations. By statute, the State educational agency is required to make a determination that the local educational agency has established parent councils in accordance with Section 141(a)(14) of the Act and, therefore, would need a brief description of the formation and operation of those councils.

13. *Comment*. Several commenters indicated some difficulty in interpreting the language used in subparagraph (a)(1) which referred to the majority membership of the parents of children "who participated in the program in the preceding year or will participate in the current year's program."

*Response*. This language has been clarified to indicate that parents of children who are participating in Title I during the current project year or who will be participating in the proposed program for the following project year (if determinable) must constitute the majority membership of the advisory council.

14. *Comment*. Several commenters suggested that paragraph (d) contain more specific methods of selecting parent advisory council members. These suggestions included: the selection of nonparent members by the parent members, the selection of all members by parents and staff in eligible schools, the required selection of district advisory council members from the membership of the school advisory councils, and the selection of parent advisory council members by an existing parent organization.

*Response*. No change has been made in the regulations. The proposed regulations were written both to conform with the specific requirements of the statute and to provide maximum flexibility for the State and local educational agencies to encourage parent involvement. The method of selection, therefore, is left to the discretion of the local educational agency (in consultation with the district advisory council) as to what it deems to be the most effective method of encouraging parent involvement, as long as such methods do not preclude or discourage participation by all parents in a project area in the selection of council members.

15. *Comment*. One commenter requested funds in addition to the existing Title I allocation to local educational agencies, to help maintain school parent advisory councils.

*Response*. No change was made in the regulations. The Commissioner does not have the authority to authorize a further appropriation without Congressional action.

16. *Comment*. One commenter wanted the regulations to require the State educational agency to provide staff to help the planning and coordination.

*Response*. No changes have been made in the regulations. Under Section 143(b) of the Act, the State educational agency is responsible for ensuring proper and efficient administration of the Act and under, such authority, may provide any technical assistance it deems necessary to local educational agencies to ensure the proper functioning of parent advisory councils. Moreover, local educational agencies under Section 141(a)(14) are considered to have the prime responsibility for the training of their advisory councils.

17. *Comment*. One commenter was concerned that compliance with proposed paragraph (d) to inform the general public of the time, place, and method of selecting council members would require enormous amounts of time and paper work.

*Response*. No change has been made in the regulations. Flexibility is given in determining the appropriate form of notice. It should be noted that notice to the public through conventional means of communication, such as local newspaper and media announcements would generally be satisfactory.

18. *Comment*. One commenter, in referring to proposed subparagraph (g)(6) which required a local educational agency to have adequate procedures for responding to parent complaints and suggestions, urged that all complaints be in written form and that no responses to complaints were needed. In addition, the commenter felt this requirement was an attempt by the Federal government to dictate local administrative practices.

*Response*. Subparagraph (g)(6), as proposed, has been deleted and relevant complaint procedures are now included in § 116.6. In order for the State educational agencies and the Commissioner to carry out their mutual administrative responsibilities, certain minimum standards of dealing with complaints are maintained.

§ 116a.26 *Comparability of services*—1. *Comment*. Several commenters stated that the date, October 1, which the Commissioner designated for determinations of comparability in Fiscal Years 1974 and 1975 was either too early for enrollments to be stabilized, or it failed to coincide with dates or periods established by the State for reports which include data related to comparability.

*Response*. The revised regulations in paragraph (c) enable each State educational agency to establish the date or reporting period for comparability purposes, not later than November 1, that best coincides with the date or period for State reports. To that extent, the State educational agency may take into account the stability of enrollments in setting the reporting date.

2. *Comment*. Several commenters urged that the averages for the comparability indicators from all of the Title I schools rather than each Title I school in a particular grade span be compared to the corresponding averages for all non-Title I schools.

*Response*. No change has been made in the regulations. In light of the legislative history (see particularly the Congressional debates in Cong. Rec. S. 4361, H. 2690 and H. 2692, daily eds. March 24, 1970, and April 7, 1970), this interpretation of the statute (Section 141(a)(3)(C)) was rejected. Such an interpretation would permit Title I services to be provided at schools that were grossly underfunded, provided there were compensating expenditures from State and local funds in other project area schools.

3. *Comment*. Several commenters indicated that the proposed rules did not recognize sufficiently the effect of school size on staff ratios and expenditures per pupil.

*Response*. Subparagraph (l)(4) has been added to allow a local educational agency to divide a grade span group into two size groups if a school in the grade span group has an enrollment that is at least two times that of another such school (The latter school must have an enrollment of over 100 students).

4. *Comment*. With respect to schools with enrollments of 100 or less, some commenters pointed out that schools with enrollments of five or ten children should not be compared with schools with enrollments of 90–100 children.

*Response*. Paragraph (k) has been revised to allow a local educational agency to file a statement of policies assuring comparability of the allocation of resources to schools having under 100 enrollment, rather than meeting comparability through a report as set forth in paragraph (b).

5. *Comment*. A number of commenters asked that the permissible variance of five percent from the comparability ratios (children per staff member and expenditures for instructional salaries less payments for length of service) based on the average of non-Title I schools be increased. Some of those commenters indicated that they are making such requests because of wide ranges in the sizes of the schools in their communities.

*Response*. While no changes were made in the permissible variance, the new division of schools by size detailed in the response to comment 3 of this section should, to some degree, serve to meet the objectives of those who wanted a change in the variance. It should be noted that the five percent variance is consistent with the decision in the relevant case of *Hobson* v *Hansen* 269 F. Supp. 401 (D.C.D.C. 1967), *affd. sub. nom.*, *Smuck* v *Hansen* 132 U.S. App. D.C., 372, 408 F. 2d. 175 (1969).

6. *Comment*. The provisions for reports on expenditure for materials and supplies contained in the proposed subparagraph (b)(7) were characterized by some commenters as "punitive," because

such reports have been required only of those local educational agencies which initially fail to demonstrate comparability. They also related their experience that such data are difficult to collect and maintain and, therefore, recommended that this requirement be deleted.

*Response.* This subparagraph has been deleted. However, subparagraph (h)(3) has been revised to include a statement of policy ensuring that the materials and supplies are distributed in a comparable manner. Because of the legislative history (see Sen. Rept. No. 91-634 pp. 14-15 (1970)), information concerning materials and supplies is a relevant part of the comparability requirements.

7. *Comment.* A few commenters recommended that a single measure of the comparability of services be adopted. Some of the commenters suggested the measure be the ratio of children enrolled to instructional staff. Still others suggested expenditures (for instructional salaries) per pupil. In both cases the commenters reasoned that a demonstration of an equitable preliminary allocation of resources, either in numbers of instructional staff or expenditures per child for instructional salaries, should be sufficient to determine that comparable services are being provided for project area schools.

*Response.* The regulation in this regard has been retained. The multiple standards are consistent with the legislative history (see Sen. Rept. No. 91-634, pp. 14-15 (1970)). Additionally, while a plan for allocating staff or funds among the schools of a local educational agency is important and perhaps a necessary management device, it is the actual delivery of those resources to individual schools that must form the basis for determinations of comparability.

8. *Comment.* One commenter suggested that only teachers, and not principals, librarians, and special instructional personnel be counted for the purposes of comparability since the last three categories of staff are frequently assigned on a school basis rather than on the basis of the number of children, a condition that frequently leads to adverse comparability determinations when project area schools are compared with nonproject area schools with considerably smaller enrollments.

*Response.* The size of school problem noted by this commenter has been taken care of by the addition of subparagraph (i)(3), as noted in response to comment 3 of this section. However, the categories of principals, librarians, and special instructional personnel have been maintained as relevant for comparability purposes since the Congressional debates on the subject indicate that Congress wanted information on a broader category of staff than merely classroom teachers (see the debates as cited in the response to comment 2 above). It is also felt that principals, librarians, and special instructional personnel do affect the quality of instructional services offered to students in Title I and non-Title I schools, and therefore, are relevant to comparability determinations.

9. *Comment.* Another commenter suggested that, for comparability purposes, certain staff members, particularly teacher aides, be counted at a fraction of their actual number. This commenter also expressed the need to permit different combinations of professional and paraprofessional staff without jeopardizing the comparability of some Title I schools.

*Response.* No change was made in the regulations. While the concern for allowing flexibility of staffing patterns for various schools is understandable, there is no recognized standard for converting a certain number of aides to an equivalent number of teachers. To some degree, this concern is met by the fact that levels of preparation are reflected in the expenditure per pupil (salaries less longevity).

10. *Comment.* A number of commenters questioned the need for the inclusion of data on expenditures for instructional staff based on length of service (longevity) as required by proposed subparagraph (b)(3), and on children, instructional staff, and expenditures for such staff as required by proposed subparagraph (b)(8) with respect to State and locally funded special or compensatory programs. Their comments were based on the fact that such data are not actually required for determinations of comparability.

*Response.* The proposed subparagraph (b)(3) has been deleted. Proposed subparagraph (b)(8) has been kept so that it may be used in assessing the effect of such exclusions on determinations of comparability.

11. *Comment.* A group of commenters from one State requested that recognition be given to the provisions of their State's financial aid plan which requires a high degree of equalization with respect to funding not only on an interdistrict basis but also on a school by school basis. The same State's formula for determining equalization also includes the use of various weighting factors for different types of children and for children at different grade levels.

*Response.* In light of these comments, changes were made in subparagraph (b)(1), to permit the weighting of actual enrollments in accordance with the weightings indicated by State or local school finance plans provided such weightings are reasonable and uniformly applied.

12. *Comment.* A few commenters asked whether the provisions concerning revised comparability reports required that all data on such a report be as of the same date.

*Response.* Additional language has been supplied in subparagraph (f)(1) to make it clear that revised comparability reports must contain data as of one date, the date that the reallocation of resources actually takes effect.

13. *Comment.* One commenter recommended that a resolution of the board of the local educational agency be accepted as the evidence of the reallocation of personnel that is required when submitting a revised report and that an appropriate change be made to the regulations.

*Response.* No such change was made in the regulations. Comparability is measured in terms of the status of services at points in time. Comparability based on intention is an incomplete measure of actual services at any one point in time; a resolution showing intent to provide comparable services is not a measure of the actual services.

14. *Comment.* A few commenters objected to the requirement that State and locally funded services for handicapped children or for bilingual programs for children with limited English-speaking ability must be provided in project areas on a basis comparable to that for nonproject areas if expenditures for such services are excluded from a determination of average per pupil expenditure. They suggested that this requirement in proposed paragraph (j) be deleted.

*Response.* No change has been made in the regulations. This "comparability type" requirement appears in the definition of "excess costs" in the statute (Section 403(17) of Pub. L. 81-874) and is applied to the comparability requirements of Section 141(a)(3)(C) on the basis of the legislative history (See House Rep. No. 93-805, pp. 17-18 (1974); and Sen. Rept. No. 93-1026, p. 147 (1974)).

15. *Comment.* Another commenter on the provisions for the exclusion of State and local funds for handicapped children requested that, in the case of part-time classes, provision be made for adjustments in the number of children reported as enrolled so as to reflect the fact that such handicapped children were also being served part-time in regular classes.

*Response.* The provisions of subparagraph (j)(2) have been adjusted accordingly to allow the exclusion requested.

16. *Comment.* One commenter objected to the provision in subparagraph (f)(3) regarding the case of a finding of noncomparability after December 1 that Title I funding for the local educational agency would be suspended as of the date of the finding. The commenter recommended that the local educational agency be given thirty days to make the necessary changes and file a revised comparability report.

*Response.* The regulation has been modified, taking into account this concern. No time limit has been set. However, the regulation now states that if "prompt" action is taken to correct the non-compliance, there will be no suspension of the approval. Whether a local educational agency acted "promptly" to correct its non-compliance status would have to be determined on a case-by-case basis depending on such factors as the amount of corrective action needed, the size of the school district, and the compliance history of that district for that year.

17. *Comment.* One commenter asked that consideration be given to counting children in less than full-day kindergarten programs on a full-time equivalency basis.

*Response.* Recognizing the special nature of kindergarten programs, appropriate language has been provided in subparagraph (b)(1) to allow part-time kindergarten children to be counted on a full-time equivalency basis.

### OTHER CHANGES IN PART 116a

1. Several typographical and technical corrections were made. Additionally, various changes were included as a means of clarification.

2. As indicated in the summary of comments on § 116.2, the definition of "educationally deprived children" is now included in § 116a.2. Conforming changes have been made to make it suitable to the local educational agency program.

3. In § 116a.5(b), the final sentence has been modified to indicate that, consistent with Section 144 of the Act, the amount of a Title I allocation attributable to children in a local institution is not available for reallocation. Another sentence was added concerning the length of the stay of children in institutions for allocation purposes.

4. In § 116a.11(a), a new subparagraph (4) was added for the purpose of defining "maximum grant" as used in this subsection for the purpose of clarity.

5. Section 116a.13 of the notice of proposed rulemaking has been deleted, since Section 101(a)(4)(B) of Pub. L. 93-380 repealed Part C of Title I as of July 1, 1975. Accordingly, proposed § 116a.14 has been renumbered § 116a.13.

6. A phrase has been added in § 116a.20(d) to emphasize that the use of the "no-wide variance" provision by a local educational agency, which meets the appropriate standards, is optional.

7. In § 116a.20(f), the number of children eligible to receive benefits under the National School Lunch Act has been added as a possible indicator of the number of children from low-income families for specified purposes.

8. As indicated in the comments on § 116.40, the provision concerning services "ordinarily provided" with State and local funds is now found in § 116a.22(b)(10), and modified to address the use of Title I funds when State and local funds are providing services that are similar to those provided under Title I.

9. Provisions in the proposed § 116a.23(f) which pertained to the use of equipment on private school premises have been moved to § 116.36.

10. § 116a.23-1(e) has been shortened and now incorporates by reference statutory provisions in Section 141A(b)(4) of the Act for review by the Court of Appeals of the Commissioner's actions under this section of the regulations and Section 141A of the Act.

11. In § 116a.25(a), subparagraphs (5) and (6) have added provisions to insure that operating procedures and coordination among parent councils have been provided.

12. Paragraph (c) of § 116a.25 has been modified to indicate that the local educational agency shall consult with the district council in establishing procedures to identify parents eligible for membership.

13. In § 116a.25(d), provisions have been added to indicate, where appropriate, that a local educational agency shall consider the publication of notices for elections in a language other than English; and to indicate that district advisory council members shall reside in the district and school members shall reside in the attendance area of that school.

14. In subparagraph (i)(1) of § 116a.26, a sentence has been added to indicate that schools serving eight or more grades may be considered as a separate grade span group for the purposes of determining comparability.

15. A new final paragraph (o) has been added to § 116a.26 which excludes from the comparability provisions, local educational agencies receiving ninety-five percent or more of their funds from Federal sources. This exclusion parallels § 116.19(e) in the maintenance of effort provisions.

Effective date: Pursuant to Section 431(d) of the General Education Provisions Act, as amended, (20 U.S.C. 1232(d)) these regulations have been transmitted to the Congress concurrently with the publication of this document in the FEDERAL REGISTER. That section provides that regulations subject thereto shall become effective on the forty-fifth day following the date of such transmission, subject to the provisions therein concerning Congressional action and adjournment.

(Catalog of Federal Domestic Assistance Program Numbers 13.427, Educationally Deprived Children-Handicapped (Pub. L. 89-313); 13.428, Educationally Deprived Children-Local Educational Agencies; 13.429, Educationally Deprived Children-Migrants; 13.430, Educationally Deprived Children-State Administration; 13.431 Educationally Deprived Children in State Administered Institutions Serving Neglected or Delinquent Children)

Dated: May 26, 1976.

T. H. BELL,
*U.S. Commissioner of Education.*

Approved: September 16, 1976.

DAVID MATHEWS,
*Secretary of Health, Education, and Welfare.*

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## PART 116—FINANCIAL ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES AND STATE AGENCIES TO MEET THE SPECIAL EDUCATIONAL NEEDS OF EDUCATIONALLY DEPRIVED, HANDICAPPED, MIGRANT, AND NEGLECTED AND DELINQUENT CHILDREN—GENERAL PROVISIONS

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116.48 Operational responsibilities.

AUTHORITY: Sec. 2, Pub. L. 89-10, 79 Stat. 27, as amended, (20 U.S.C. 241a-241m, 242, 244), unless otherwise noted.

### Subpart A—Scope

### § 116.1 Applicability.

(a) *Other Title I regulations.* The regulations in this part are applicable to all programs conducted under Title I of the Elementary and Secondary Education Act of 1965, for which regulations are contained in Parts 116a, 116b, 116c, and 116d of this chapter.

(b) *General provisions regulations for Office of Education programs.* Assistance provided under this part is subject to applicable provisions contained in Parts 100, 100b, and 100c (and relevant appendices) of subchapter A of this chapter (relating to fiscal, administrative, property management, and other matters).

(c) The text of the Title I statute is contained in full in the Appendix to this part.

(20 U.S.C. 241a)

### § 116.2 Definitions.

(a) As used in this part and in Parts 116a, 116b, 116c, and 116d (except as otherwise indicated in those parts)—

"Act" means the Elementary and Secondary Education Act of 1965 (Pub. L. 89-10) as amended. Title II of Pub. L. 874, 81st Congress, which was added by Title I of said Elementary and Secondary Education Act of 1965, is hereinafter in this part referred to as Title I.

(20 U.S.C. 241a)

"Applicant agency" means a local educational agency that applies for a grant under Part 116a, a State agency that applies for a grant under Part 116b, or Part

116c, and a State educational agency that applies for a grant under Part 116d.

(20 U.S.C. 244(6)(B))

"Child or children" except where otherwise specified means a person or persons not above 21 years of age who, under State law, are entitled to free public education which is provided as elementary and secondary education, not above grade 12. The term also includes a person or persons who are of preschool age.

(20 U.S.C. 241c-2, 241e(a)(1).)

(b) As used in this part, and in Parts 116a, 116b, 116c, and 116d (except as otherwise indicated in those parts) the following terms have the meaning given to them in section 403 of Pub. L. 81-874 (20 U.S.C. 244) which is set forth in the appendix to this part:

Average daily attendance
Average per pupil expenditure
Commissioner
Construction
County
Current expenditures
Elementary school
Equipment
Excess costs
Federal property
Free public education
Local educational agency
Parent
School facilities
Secondary school
State
State educational agency

(20 U.S.C. 241a, 244.)

## Subpart B—Duties and Functions of State Educational Agencies

### § 116.3 Participation of States.

(a) *Required submissions.* Any State desiring to participate under Title I shall submit through its State educational agency to the Commissioner a general application and an annual program plan as set forth in section 434(b)(1)(A) and 434(b)(1)(B) of the General Education Provisions Act and the regulations in Part 100b of this chapter. However, with respect to the program described in Part 116d relating to migratory children of migratory agricultural workers or fishermen, subparagraph (1) does not apply. The annual program plan shall include: (1) The assurances required by Section 142(a)(1) and (3) of Title I;

(2) An assurance that the State educational agency will comply with Title I and the regulations in this part and the applicable provisions of Parts 116a, 116b, 116c, and 116d of this chapter;

(3) A statement describing the purposes for which Federal funds will be expended under Title I during the fiscal year for which the annual program plan is submitted; and

(4) A certificate by the appropriate State legal officer to the effect that the agency submitting the plan has the authority under State law to perform the duties and functions of a State educational agency under Title I and the applicable regulations, including those arising from the assurances given.

(b) *Approval by the Commissioner*—(1) *Determinations of the Commissioner.* The Commissioner will approve each annual program plan to participate in the grant program under Title I, submitted by a State through its State educational agency, if the Commissioner determines that the plan meets the requirements of the applicable provisions of Title I and the regulations in this part and Parts 116a, 116b, 116c, and 116d. The Commissioner will not finally disapprove (in whole or in part) such State program plan with regard to Title I except after reasonable notice and opportunity for a hearing.

(20 U.S.C. 241f(b), 1232c.)

### § 116.4 State administration and technical assistance.

(a) *General.* The State educational agency for a State for which the Commissioner has approved a plan, as specified in § 116.3(b), shall be responsible for the proper and efficient performance of the duties of such agency under Title I including compliance with its assurances to the Commissioner and the provision of technical assistance to local and State agencies with respect to the measurements and evaluations such agencies are required to submit pursuant to such Title.

(b) *Amount available for administration.* Each State educational agency is entitled to receive for each fiscal year an amount equal to the amount expended by it for performance of its duties under this section but not to exceed the amounts set forth in section 143(b) of Title I.

(20 U.S.C. 241g, 1232c)

### § 116.5 Approval by State educational agency of applications from applicant agencies.

(a) *Review by State educational agency.* The State educational agency shall review all applications by applicant agencies except for an applicant agency under Part 116d. The State educational agency shall not approve an application (1) for an amount which together with amounts of other approved applications by that agency, exceeds the amount available for grants to that agency determined in accordance with Title I or (2) unless it has determined that the application meets all of the applicable requirements of Title I and the regulations.

(b) *Effective date of approved application.* Projects approved pursuant to paragraph (a) of this section shall be considered to be in effect as of the date on which the application was submitted in substantially approvable form. In no event shall such date be earlier than the first day on which the funds being applied for become available for obligation, or the effective date of the State educational agency's annual program plan.

(c) *Notice and opportunity for hearing.* The State educational agency shall not finally disapprove any application in whole or in part without first affording the applicant agency reasonable notice and opportunity for a hearing with respect to such action in accordance with the requirements of section 425 of the General Education Provisions Act. Such notice shall include the reasons for the proposed disapproval. A hearing shall be held by the State agency 30 days after it receives a request from the applicant agency. If the State educational agency decides not to rescind its final action, it shall give notice of the decision to the applicant agency in writing, stating its reasons and indicating the right to appeal to the Commissioner within twenty days of the receipt of the notice.

(d) *Appeal.* An applicant agency aggrieved by the final action of a State educational agency shall be given the opportunity for an appeal to the Commissioner as set forth in section 425 of the General Education Provisions Act.

(e) *Availability to the public.* Each application of a local educational agency or a State agency for a grant under Title I; the related documents referred to in Parts 116a, 116b, 116c, and 116d; and the evaluation and other reports referred to in such parts, shall be made available to the public by the State educational agency in the manner prescribed by § 116.35.

(20 U.S.C. 241e(c), 241f, 1231b-2, 1231d)

### § 116.6 Review and complaint procedures.

The State educational agency shall establish procedures for investigating complaints alleging violations of Title I or the regulations for that Title including:

(a) Procedures to carry out section 425 (a) and (c) of the General Education Provisions Act and § 116.5(c); and

(b) Procedures for resolving the complaints of parents and other individuals and organizations, including:

(1) Specific time limits for investigation and resolution of complaints, not normally to exceed 60 days;

(2) An opportunity for the complainant to present evidence to the State educational agency; and

(3) Dissemination of information concerning procedures under this paragraph to interested parties, including parent advisory councils.

(20 U.S.C. 241f(a)(3), 1231b-2, 1231d)

### § 116.7 Reports by State educational agencies.

(a) *Annual evaluation reports.* Following the close of each fiscal year and no later than November 15 of the next fiscal year, the State educational agency shall submit to the Commissioner reports evaluating the effectiveness of programs and projects under Title I in meeting the special educational needs of participating children during the preceding school year and the following summer period. In addition to the State annual evaluation reports required by this paragraph, each State educational agency shall submit evaluation reports for two applicant agencies applying under Part 116a, including one for such an agency whose allocation for funds under Title I of the Act for the current fiscal year is among the five highest in the State.

(b) *Reports concerning complaints.* The State educational agency shall report to the Commission on the disposition of all complaints filed and reviewed pursuant to the procedures developed under § 116.6. Reports shall be made as follows:

(1) *Interim reports.* In any case, where the complaint has not been fully investigated and resolved by the expiration of a 60-day period, the State educational agency shall report at that time, the substance of the complaint to the Commissioner along with an explanation of its status;

(2) *Final reports.* In the case of a complaint which has been fully investigated, the State educational agency shall submit a report to the Commissioner which includes at least:

(i) The substance of any allegation and the name of the individual citizen, private organization or local educational agency making the allegation;

(ii) A summary of the results of the investigation and any hearings held concerning the allegation; and

(iii) A statement of the disposition of the complaint by the State educational agency, giving the reasons for such disposition.

(3) *Copies to be sent.* The State educational agency, upon sending its report to the Commissioner, shall send copies thereof to the appropriate applicant agency and the complainant.

(20 U.S.C. 241f(a)(3)(B), 1231(a), 1232c)

## Subpart C—Payments

### § 116.17 Payment procedures.

The Commissioner will make all payments of Title I funds in accordance with the requirements of Title I, the regulations of this part and applicable provisions of Parts 116a, 116b, 116c, and 116d, the requirements of Section 435 of the General Education Provisions Act and the provisions set out in Subpart E of Part 100b of this chapter.

(20 U.S.C. 1232d)

### § 116.18 Title I funds not to be considered in determining State aid.

No payments by the Commissioner under Title I will be made to a State for any fiscal year in which the State has taken such payments into consideration in determining the eligibility of an applicant agency for State aid, or in determining the amount of that aid for the free public education of children in such a way as to penalize the applicant agency with respect to the availability of State funds.

(20 U.S.C. 241g(c)(1))

### § 116.19 Maintenance of effort.

(a) *General requirement.* No payments under Title I for any fiscal year may be made by the State educational agency to an applicant agency unless the State educational agency finds that the combined fiscal effort of that applicant agency and the State with respect to the provision of free public education by that applicant agency for the preceding fiscal year was not less than such combined fiscal effort for that purpose for the second preceding fiscal year.

(b) *Measurement of combined fiscal effort.* For purposes of this section, combined fiscal effort by an applicant agency shall be measured by the amount of the current expenditures per pupil by the applicant agency other than expenditures from funds derived from Federal sources for which the applicant agency is required to account to the Federal Government directly or through the State educational agency; such as funds under Titles I, II, III and IV of the Act, Titles III and V of the National Defense Education Act of 1958, the Johnson-O'Malley Act, and the Economic Opportunity Act of 1964. A combined fiscal effort in the preceding fiscal year shall not be deemed to be a reduction from that in the second preceding fiscal year unless the per pupil expenditure in the preceding fiscal year is less than that in the second preceding fiscal year by more than 5 percent. Any such reduction in the combined fiscal effort by an applicant agency for any fiscal year by more than 5 percent will disqualify the applicant agency unless the agency is able to demonstrate to the satisfaction of the State educational agency that such a reduction was occasioned by an unusual event, such as the removal of a large segment of property from the tax rolls, that could not have been fully anticipated or reasonably compensated for by the applicant agency and a diminished fiscal effort on the part of that agency is not otherwise indicated.

(c) *An applicant agency which receives substantial Federal funds.* An applicant agency receiving at least 95 percent of its funds for education from Federal sources will not be required to meet the provisions of this section.

(20 U.S.C. 241g(c)(2))

### § 116.20 Withholding by the Commissioner.

(a) *Nonconformity.* Whenever the Commisioner, after reasonable notice and opportunity for a hearing to any State educational agency, finds that there has been a failure to comply substantially with any assurance set forth in regard to Title I of the Act in the annual program plan of that State, he will notify the agency that further payments will not be made to the State under Title I of the Act (or, in his discretion, that the State educational agency will not make further payments under Title I of the Act to specified applicant agencies affected by the failure) until he is satisfied that there is no longer any such failure to comply. Until the Commissioner is so satisfied, further payments under Title I of the Act will not be made to that State or payments by the State educational agency will be limited to payments to applicant agencies not affected by the failure, as the case may be.

(b) *Suspension.* The remedy of suspension pending termination as provided in section 434(c) of the General Education Provisions Act may be invoked in connection with a termination under this section.

(c) *Attempts to resolve differences.* Prior to initiating a hearing under this section, the Commissioner will attempt to resolve promptly any apparent differences with the State educational agency regarding the interpretation or application of the provisions of Title I of the Act and the pertinent regulations.

(20 U.S.C. 241(j), 1232c(c), (d))

## Subpart D—Provisions Relating to Use of Funds for Particular Purposes

### § 116.30 Planning grants.

An applicant agency may apply for a grant in an amount not exceeding one percent of the maximum grant it is eligible to receive or $2,000, whichever is greater, for planning during the current fiscal year, provided that (a) such planning was, or will be, directly related to programs or projects to be carried out under Title I of the Act and has resulted, or is reasonably likely to result, in a program which will be carried out under that Title, and (b) such planning funds are necessary for that purpose because of the innovative nature of the program or project or because the local educational agency lacks the resources necessary for adequate planning for programs or projects to be carried out under Title I.

(20 U.S.C. 241(e)(a)(1) and (5).)

### § 116.31 Cooperative projects.

Two or more applicant agencies eligible for grants under Title I of the Act may apply for a grant for a single project (including a planning project) to be carried out jointly in accordance with arrangements between or among such educational agencies.

(20 U.S.C. 241e(a)(1))

### § 116.32 Construction and equipment.

(a) *General.* An application for a project grant under Title I may include the acquisition of equipment or the construction or remodeling of school facilities only if it is demonstrated as being essential to the success of a program or project under Title I. Each application shall describe the need for such equipment or construction, in addition to other equipment or facilities previously acquired or constructed by the applicant with funds under Title I and for which the applicant is accountable, in connection with the proposed project. The applicant shall further describe how all such equipment or facilities will be used. If the construction of school facilities is so demonstrated as being essential for a program or project, the application must nevertheless comply with other requirements of Title I and the regulations in this chapter, such as the requirements in Subpart K, Part 100b of this chapter in regard to labor standards and overall State construction planning and, in relation to the overall program, the limitations in § 116a.23(f) in regard to participation by children enrolled in private schools.

(b) *Prohibition against maintaining isolation.* The State educational agency shall not approve a project involving construction of school facilities if it finds that such construction would tend to maintain the racial, cultural, or linguistic isolation of children.

(20 U.S.C. 241e(a) (1) and (4), 1232b)

### § 116.33 Reimbursement for expenses incurred by parent council members and volunteers.

Members of parent councils and volunteers not receiving regular compensation under Title I may be reimbursed from Title I funds for personal expenses directly attributable to the performance of their duties and functions as set forth in approved applications.

(20 U.S.C. 241e(a) (14), 1231d)

### § 116.34 Education aides.

An application for a project which involves the use of education aides shall include evidence that the applicant agency has provided, or will provide, a coordinated program of training in which the aides participate together with the professional staff whom they will assist.

(20 U.S.C. 241e(a) (12))

### § 116.35 Staffing for programs and projects.

Payment of Title I funds may be authorized for the employment of the personnel required to provide specific services set forth in approved Title I applications. Such applications shall state the number and types of personnel to be employed.

(20 U.S.C. 241e(a) (1))

### § 116.36 Training.

Payment of Title I funds may be authorized for pre-service and in-service training of persons identified in this section.

(a) *Scope of training.* Such training must be directly related to: (1) The services which such persons will perform during the same project year in connection with an approved program or project under Title I; and

(2) Their needs for the development of competencies required if the program or project is to be effective in meeting the special educational needs of the identified children to be served in the program or project. Such training must be coordinated with any other training being provided in connection with the program or project.

(b) *Eligible persons.* Such training may be provided for:

(1) Title I staff members, Parent Council members, and volunteers who are engaged to perform specific services related to approved programs or projects;

(2) Non-Title I staff specialists who will be dealing solely with children to be served by the Title I projects, and regular classroom teachers of such children; and

(3) The principal of a school for which a Title I program or project has been approved.

(20 U.S.C. 241e(a) (1), (12), and (14), 1231d; House Report No. 93-805, p. 17 (1974), Sen. Report No. 93-1026, p. 144 (1974).)

### §§ 116.37–116.39 [Reserved]

## Subpart E—Requirements for Applicant Agencies

### § 116.40 Title I funds supplementary to State and local funds.

(a) *General.* (1) Each application by an applicant agency for a grant under Title I shall contain an assurance that the use of the grant funds will not result in a decrease in the use (for educationally deprived children) of State or local funds which, in the absence of funds under Title I, would be made available for the education of such children, and that such children will not otherwise be penalized in the application of State and local funds because of such a use of funds under Title I.

(2) No project under Title I shall be approved unless Federal funds made available for that project (i) will be used to supplement, and to the extent practical, increase the level of State and local funds that would, in the absence of such Federal funds, be made available for the education of pupils participating in that project; (ii) will not be used to supplant State and local funds available for the education of such pupils; and (iii) will be used solely to pay the excess costs of programs and projects assisted under Title I.

(b) *Services which applicant is required to provide.* Title I funds shall not be used to provide services which the applicant agency is required to provide by State law or pursuant to a formal determination under Title VI of the Civil Rights Act, Title IX of the Education Amendments of 1972 (Pub. L. 92–318), or section 504 of the Vocational Rehabilitation Act of 1973, as amended, or pursuant to a final order of a court.

(20 U.S.C. 241e(a) (1) and (3); Lau v. Nichols 414 U.S. 563 (1974))

### § 116.41 Relation of Title I projects to other programs.

(a) *Coordination in development of application.* Each application by an applicant agency for a grant under Title I shall demonstrate that, in the development of such application, the applicant has taken into consideration benefits which are or may be available through other public and private agencies, and which would contribute toward meeting the special educational needs of educationally deprived children. Such application shall also demonstrate that the applicant has considered suggestions and offers of assistance which have been timely made by such agencies and which may aid in carrying out or making more effective the program or project for which application is made. Applicants shall, upon request, make their applications available to interested public and private agencies far enough in advance of final formulation to enable such agencies to make meaningful suggestions and offers.

(b) *Simultaneous use of funds.* The simultaneous use of funds under Title I and funds under other Federal programs to support discrete portions of a particular project is permissible if (1) the requirements of each program, considered separately, are satisfied with respect to the portion of the project which is being financed from such program; (2) there is no commingling of funds derived from one appropriation with funds derived from another appropriation; and (3) there is no transfer of funds derived from an appropriation to the use of an activity not authorized by the law authorizing such appropriation.

(c) *Use of State and local funds.* A program or project set forth in a project application that meets all the requirements of Title I shall be funded from State and local funds to the extent that such funds are specifically designated and available at the time of application for particular services included in the project. Under the conditions set forth in this section, Title I funds may be used to provide those services not provided by funds from other sources.

(20 U.S.C. 241e(a) (1) and (3), and 1232c (b)(1))

### § 116.42 Administrative control of Title I property.

(a) *Control and title in public agency.* Control over the use of funds provided under Title I, and title to and administrative control over property acquired with these funds, shall be in a public agency, which will exercise such control consistent with §§ 100b.215 and 100b.216 of the general provisions regulations (45 CFR 100b.215, 100b.216). These funds and property shall be used for the purposes provided in Title I but such use shall not inure to the benefit of any private school. The incidental use of such property for other purposes is permitted only for related educational purposes on public premises and only so long as such use does not interfere with the carrying out of a Title I project.

(b) *Equipment.* Equipment acquired with Title I funds may in certain cases be placed on private school premises. Title to and administrative control over such equipment must be retained and exercised by a public agency. In exercising that administrative control, the public agency shall keep records of, and account for, the equipment and shall also assure itself that the equipment is being used solely for the purposes of the project, and remove the equipment from the private school premises when necessary to avoid its being used for other purposes or when it is no longer needed for the purposes of the project.

(c) *Assurance.* An application for a grant under Title I must contain satisfactory assurance that Title I funds and property derived therefrom, will at all times be under the control of, and be administered by, a public agency in accordance with the provisions of Title I and the regulations in this part.

(20 U.S.C. 241e(a) (3) (A) and 1232c(a))

### § 116.43 Measurement of educational achievement and evaluation of programs.

(a) *Annual evaluation procedures.* Each application by an applicant agency for a grant under Title I shall describe the procedures and techniques to be used in making at least annually an evaluation of the effectiveness of the program in meeting the special educational needs of participating children including appropriate performance criteria and the instruments and methods to be used to measure objectively changes in the educational achievement of such children.

(b) *Standards*. The measurement of educational achievement of participating children shall be carried out with regard to objective standards or norms. The type of measurement used shall give particular regard to the requirement under § 116.7 of Subpart B that the State educational agency report to the Commissioner on the effectiveness of the programs in that State in improving the educational achievement of participating children.

(c) *Children in private schools*. The evaluation of programs and projects shall, consistent with the nature and extent of participation of children enrolled in private schools, be extended to such participation.

(20 U.S.C. 241c–1, c–2, c–3, 241e(a) (2) and (6), 241e–1)

### § 116.44 Dissemination and utilization of results of educational research and demonstrations.

Each application by an applicant for a grant under Title I shall describe the methods to be used by the applicant for reviewing, selecting, and disseminating to teachers and educational administrators significant information on the latest developments and most recent experiments in education so that such information will be available for use in program planning and operation. These methods may include, among other things, inservice education, professional workshops and seminars, consultations and visitations, and reports on the organization, operation and outcome of projects under Title I.

(20 U.S.C. 241c–1, c–2, c–3, 241e(a) (10))

### § 116.45 Public information.

Each application by an applicant agency for a grant under Title I shall include specific plans for disseminating information concerning the provisions of Title I, and the applicant's past and present Title I programs—including evaluations of such programs—to parents and to the general public. The applicant agency shall make available to them, upon request, those applications, evaluations of the applicant's past Title I projects, all reports required by § 116.46 to be submitted to the State educational agency, comparability reports and such other documents as may be reasonably necessary to meet the needs of such parents or other members of the public for information related to the comprehensive planning, implementation, and evaluation of the Title I program, but not including information relating to the performance of identified children and teachers. Such information and documentation shall be available until the expiration of five years after the completion of a Title I project, or until any pending audit by the Department of Health, Education, and Welfare or the General Accounting Office (consistent with Section 434(a) of the General Education Provisions Act) has been completed and the questions arising out of it have been resolved. Such plans shall include provision for the reproduction, upon request, of such documents free of charge or at reasonable costs (not to exceed the additional costs incurred which are not covered by Title I funds) or provisions whereby persons requesting such copies will be given adequate opportunity to arrange for the reproduction of such documents.

(20 U.S.C. 241e(a) (8), and (14) (D), 1231d)

### § 116.46 Reports by applicant agencies.

Each application by an applicant agency under Title I shall provide assurance that the applicant agency will render to the State educational agency an annual report and such other reports, in such form, and containing such information, including the results of objective measurements of educational achievement and program effectiveness required by § 116.43 and of research and replication studies, as may be reasonably necessary to enable the State educational agency to perform its duties under Title I. In the case of reports relating to performance the information supplied shall have been developed in accordance with specific performance criteria related to program objectives.

(20 U.S.C. 241c–1, 241c–2, 241c–3, 241e(a) (6) and (7), 241f(a) (3))

### § 116.47 Individualized educational plans.

In considering applications under Title I, a State educational agency shall encourage where feasible applicant agencies submitting such applications to provide for the development for each child participating in an approved program or project under such Title I, an individualized written educational plan (maintained and periodically evaluated), agreed upon jointly by the applicant agency, a parent or guardian of the child, and when appropriate, the child. Funds under Title I of the Act may be used for the purpose of developing, maintaining and evaluating such plans.

(20 U.S.C. 241e(b))

### § 116.48 Operational responsibilities.

The approval of an application under Title I does not relieve an applicant agency of the responsibility to carry out its project or projects in accordance with the approved application, Title I, and the applicable regulations.

(20 U.S.C. 241e, 241j, 1232e(c))

## TITLE I—FINANCIAL ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES FOR THE EDUCATION OF CHILDREN OF LOW-INCOME FAMILIES

Elementary and Secondary Education Act of 1965, as amended, including changes made by Pub. L. 93–380, approved August 21, 1974.

### Declaration of Policy

Section 101. In recognition of the special educational needs of children of low-income families and the impact that concentrations of low-income families have on the ability of local educational agencies to support adequate educational programs, the Congress hereby declares it to be the policy of the United States to provide financial assistance (as set forth in the following parts of this title) to local educational agencies serving areas with concentrations of children from low-income families to expand and improve their educational programs by various means (including preschool programs) which contribute particularly to meeting the special educational needs of educationally deprived children.

### Duration of Assistance

Sec. 102. During the period beginning July 1, 1973, and ending June 30, 1978, the Commissioner shall, in accordance with the provisions of this title, make payments to State educational agencies for grants made on the basis of entitlements created under this title.

### Part A—Basic Grants

### SUBPART 1—GRANTS TO LOCAL EDUCATIONAL AGENCIES

Sec. 103. (a) (1) There is authorized to be appropriated for each fiscal year for the purpose of this paragraph 1 per centum of the amount appropriated for such year for payments to States under section 143(a) (other than payments under such section to jurisdictions excluded from the term "State" by this subsection, and payments pursuant to section 124), and there shall be authorized to be appropriated such additional sums as will assure at least the same level of funding under this title as in fiscal year 1973 for Guam, American Sámoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and to the Secretary of the Interior for payments pursuant to paragraphs (1) and (2) of subsection (d). The amount appropriated pursuant to this paragraph shall be allotted by the Commissioner (A) among Guam, American Samoa, the Virginia Islands, and the Trust Territory of the Pacific Islands according to their respective need for grants under this part, and (B) to the Secretary of the Interior in the amount necessary (i) to make payments pursuant to paragraph (1) of subsection (d), and (ii) to make payments pursuant to paragraph (2) of subsection (d). The grant which a local educational agency in Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands is eligible to receive shall be determined pursuant to such criteria as the Commissioner determines will best carry out the the purposes of this title.

(2) In any case in which the Commissioner determines that satisfactory data for that purpose are available, the grant which a local educational agency in a State shall be eligible to receive under this subpart for a fiscal year shall (except as provided in paragraph (3)) be determined by multiplying the number of children counted under subsection (c) by 40 per centum of the amount determined under the next sentence. The amount determined under this sentence shall be the average per pupil expenditure in the State except that (A) if the average per pupil expenditure in the State is less than 80 per centum of the average per pupil expenditure in the United States, such amount shall be 80 per centum of the average per pupil expenditure in the United States, or (B) if the average per pupil expenditure in the State is more than 120 per centum of the average per pupil expenditure in the United States, such amount shall be 120 per centum of the average per pupil expenditure in the United States. In any case in which such data are not available, subject to paragraph (3), the grant for any local educational agency in a State shall be determined on the basis of the aggregate amount of such grants for all such agencies in the county or counties in which

the school district of the particular agency is located, which aggregate amount shall be equal to the aggregate amount determined under the two preceding sentences for such county or counties, and shall be allocated among those agencies upon such equitable basis as may be determined by the State educational agency in accordance with basic criteria prescribed by the Commissioner.

(3)(A) Upon determination by the State educational agency that a local educational agency in the State is unable or unwilling to provide for the special educational needs of children described in clause (C) of paragraph (1) of subsection (c), who are living in institutions for neglected or delinquent children, the State educational agency shall, if it assumes responsibility for the special educational needs of such children, be eligible to receive the portion of the allocation to such local educational agency which is attributable to such neglected or delinquent children, but if the State educational agency does not assume such responsibility, any other State or local public agency, as determined by regulations established by the Commissioner, which does assume such responsibility shall be eligible to receive such portion of the allocation.

(B) In the case of local educational agencies which serve in whole or in part the same geographical area, and in the case of a local educational agency which provides free public education for a substantial number of children who reside in the school district of another local educational agency, the State educational agency may allocate the amount of the grants for those agencies among them in such manner as it determines will best carry out the purposes of this title.

(C) The grant which Puerto Rico shall be eligible to receive under this subpart for a fiscal year shall be the amount arrived at by multiplying the number of children counted under subsection (c) by 40 per centum of (i) the average per pupil expenditure in Puerto Rico or (ii) in the case where such average per pupil expenditure is more than 120 per centum of the average per pupil expenditure in the United States, 120 per centum of the average per pupil expenditure in the United States.

(4) For purposes of this subsection, the term "State" does not include Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(b) A local educational agency shall be eligible for a basic grant for a fiscal year under this part only if it meets the following requirements with respect to the number of children counted under subsection (c):

(1) In any case (except as provided in paragraph (3)) in which the Commissioner determines that satisfactory data for the purpose of this subsection as to the number of such children are available on a school district basis, the number of such children in the school district of such local educational agency shall be at least ten.

(2) In any other case, except as provided in paragraph (3), the number of such children in the county which includes such local educational agency's school district shall be at least ten.

(3) In any case in which a county includes a part of the school district of the local educational agency concerned and the Commissioner has not determined that satisfactory data for the purpose of this subsection are available on a school district basis for all the local educational agencies for all the counties into which the school district of the local educational agency concerned extends, the eligibility requirement with respect to the number of such children for such local educational agency shall be determined in accordance with regulations prescribed by the Commissioner for the purposes of this subsection.

(c)(1) The number of children to be counted for purposes of this section is the aggregate of (A) the number of children aged five to seventeen, inclusive, in the school district of the local educational agency from families below the poverty level as determined under paragraph (2) (A), (B) two-thirds of the number of children aged five to seventeen, inclusive, in the school district of such agency from families above the poverty level as determined under paragraph (2) (B), and (C) the number of children aged five to seventeen, inclusive, in the school district of such agency living in institutions for neglected or delinquent children (other than such institutions operated by the United States) but not counted pursuant to section 123 for the purposes of a grant to a State agency, or being supported in foster homes with public funds.

(c)(2)(A) For the purposes of this section, the Commissioner shall determine the number of children aged five to seventeen, inclusive, from families below the poverty level on the basis of the most recent satisfactory data available from the Department of Commerce for local educational agencies (or, if such data are not available for such agencies, for counties); and in determining the families which are below the poverty level, the Commissioner shall utilize the criteria of poverty used by the Bureau of the Census in compiling the 1970 decennial census.

(B) For purposes of this section, the Secretary of Health, Education, and Welfare shall determine the number of children aged five to seventeen, inclusive, from families above the poverty level on the basis of the number of such children from families receiving an annual income, in excess of the current criteria of poverty, from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act; and in making such determinations the Secretary shall utilize the criteria of poverty used by the Bureau of the Census in compiling the 1970 decennial census for a nonfarm family of four in such form as those criteria have been updated by increases in the Consumer Price Index. The Secretary shall determine the number of such children and the number of children of such ages living in institutions for neglected or delinquent children, or being supported in foster homes with public funds, on the basis of the caseload data for the month of January of the preceding fiscal year (using, in the case of children described in the preceding sentence, the criteria of poverty and the form of such criteria required by such sentence which were determined for the second calendar year preceding such month of January) or, to the extent that such data are not available to him before April 1 of the calendar year in which the Secretary's determination is made, then on the basis of the most recent reliable data available to him at the time of such determination.

(C) When requested by the Commissioner, the Secretary of Commerce shall make a special estimate of the number of children of such ages who are from families below the poverty level (as determined under paragraph (A) of this subsection) in each county or school district, and the Commissioner is authorized to pay (either in advance or by way of reimbursement) the Secretary of Commerce the cost of making this special estimate. The Secretary of Commerce shall give consideration to any request of the chief executive of a State for the collection of additional census information. For purposes of this section, the Secretary shall consider all children who are in correctional institutions to be living in institutions for delinquent children.

(d)(1) From the amount allotted for payments to the Secretary of the Interior under clause (B)(i) in the second sentence of subsection (a)(1), the Secretary of the Interior shall make payments to local educational agencies, upon such terms as the Commissioner determines will best carry out the purposes of this title, with respect to out-of-State Indian children in the elementary and secondary schools of such agencies under special contracts with the Department of the Interior. The amount of such payment may not exceed, for each such child, 40 per centum of (A) the average per pupil expenditure in the State in which the agency is located or (B) 120 per centum of such expenditure in the United States, whichever is the greater.

(2) The amount allotted for payments to the Secretary of the Interior under clause (B)(ii) in the second sentence of subsection (a)(1) for any fiscal year shall be, as determined pursuant to criteria established by the Commissioner, the amount necessary to meet the special educational needs of educationally deprived Indian children on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior. Such payments shall be made pursuant to an agreement between the Commissioner and the Secretary containing such assurances and terms as the Commissioner determines will best achieve the purposes of this title. Such agreement shall contain (A) an assurance that payments made pursuant to this subparagraph will be used solely for programs and projects approved by the Secretary of the Interior which meet the applicable requirements of section 141(a) and that the Department of the Interior will comply in all other respects with the requirements of this title, and (B) provision for carrying out the applicable provisions of sections 141(a) and 142(a)(3).

## SUBPART 2—STATE OPERATED PROGRAMS

### PROGRAMS FOR HANDICAPPED CHILDREN

SEC. 121. (a) A State agency which is directly responsible for providing free public education for handicapped children (including mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, crippled, or other health impaired children who by reason thereof require special education), shall be eligible to receive a grant under this section for any fiscal year.

(b) Except as provided in sections 124 and 125, the grant which an agency (other than the agency for Puerto Rico) shall be eligible to receive under this section shall be an amount equal to 40 per centum of the average per pupil expenditure in the State (or (1) in the case where the average per pupil expenditure in the State is less than 80 per centum of the average per pupil expenditure in the United States, of 80 per centum of the average per pupil expenditure in the United States, or (2) in the case where the average per pupil expenditure in the State is more than 120 per centum of the average per pupil expenditure in the United States, of 120 per centum of the average per pupil expenditure in the United States), multiplied by the number of such children in average daily attendance, as determined by the Commissioner, at schools for handicapped children operated or supported by the State agency, including schools providing special education for handicapped children under contract or other arrangement with such State agency, in the most recent fiscal year for which satisfactory data are available. The grant which Puerto Rico shall be eligible to receive under this section shall be the amount arrived at by multiplying the number of children in Puerto Rico counted as provided in the preceding sentence by 40 per centum of (1) the average per pupil expenditure in Puerto Rico or (2) in the case where such average per pupil expenditure is more than 120 per centum of the average per pupil expenditure in the United States, 120 per centum of the average per pupil expenditure in the United States.

(c) A State agency shall use the payments made under this section only for programs and projects (including the acquisition of equipment and, where necessary, the construction of school facilities) which are designed to meet the special educational needs of such children, and the State agency shall provide assurances to the Commissioner that each such child in average daily attendance counted under subsection (b) will be provided with such a program, commensurate with his special needs, during any fiscal year for which such payments are made.

(d) In the case where such a child leaves an educational program for handicapped children operated or supported by the State agency in order to participate in such a program operated or supported by a local educational agency, such child shall be counted under subsection (b) if (1) he continues to receive an appropriately designed educational program and (2) the State agency transfers to the local educational agency in whose program such child participates an amount equal to the sums received by such State agency under this section which are attributable to such child, to be used for the purposes set forth in subsection (c).

### Programs for Migratory Children

Sec. 122. (a)(1) A State educational agency or a combination of such agencies, upon application, shall be entitled to receive a grant for any fiscal year under this section to establish or improve, either directly or through local educational agencies, programs of education for migratory children of migratory agricultural workers or of migratory fishermen. The Commissioner may approve such an application only upon his determination—

(A) That payments will be used for programs and projects (including the acquisition of equipment and where necessary the construction of school facilities) which are designed to meet the special educational needs of migratory children of migratory agricultural workers or of migratory fishermen, and to coordinate these programs and projects with similar programs and projects in other States, including the transmittal of pertinent information with respect to school records of such children;

(B) That in planning and carrying out programs and projects there has been and will be appropriate coordination with programs administered under part B of title III of the Economic Opportunity Act of 1964;

(C) That such programs and projects will be administered and carried out in a manner consistent with the basic objectives of clauses (1)(B) and (3) through (12) of section 141(a); and

(D) That, in planning and carrying out programs and projects, there has been adequate assurance that provision will be made for the preschool educational needs of migratory children of migratory agricultural workers or of migratory fishermen, whenever such agency determines that compliance with this clause will not detract from the operation of programs and projects described in clause (A) of this paragraph after considering funds available for this purpose.

The Commissioner shall not finally disapprove an application of a State educational agency under this paragraph except after reasonable notice and opportunity for a hearing to the State educational agency.

(2) If the Commissioner determines that a State is unable or unwilling to conduct educational programs for migratory children of migratory agricultural workers or of migratory fishermen, or that it would result in more efficient and economic administration, or that it would add substantially to the welfare or educational attainment of such children, he may make special arrangements with other public or nonprofit private agencies to carry out the purposes of this section in one or more States, and for this purpose he may use all or part of the total of grants available for any such State under this section.

(3) For purposes of this section, with the concurrence of his parents, a migratory child of a migratory agricultural worker or of a migratory fisherman shall be deemed to continue to be such a child for a period, not in excess of five years, during which he resides in the area served by the agency carrying on a program or project under this subsection. Such children who are presently migrant, as determined pursuant to regulations of the Commissioner, shall be given priority in this consideration of programs and activities contained in applications submitted under this subsection.

(b) Except as provided in sections 124 and 125, the total grants which shall be made available for use in any State (other than Puerto Rico) for this section shall be an amount equal to 40 per centum of the average per pupil expenditure in the State (or (1) in the case where the average per pupil expenditure in the State is less than 80 per centum of the average per pupil expenditure in the United States, of 80 per centum of the average per pupil expenditure in the United States, or (2) in the case where the average per pupil expenditure in the State is more than 120 per centum of the average per pupil expenditure in the United States, of 120 per centum of the average per pupil expenditure in the United States) multiplied by (1) the estimated number of such migratory children aged five to seventeen, inclusive, who reside in the State full time, and (2) the full-time equivalent of the estimated number of such migratory children aged five to seventeen, inclusive, who reside in the State part time, as determined by the Commissioner in accordance with regulations, except that if, in the case of any State, such amount exceeds the amount required under subsection (a), the Commissioner shall allocate such excess, to the extent necessary, to other States whose total of grants under this sentence would otherwise be insufficient for all such children to be served in such other States. The total grant which shall be made available for use in Puerto Rico shall be arrived at by multiplying the number of children in Puerto Rico counted as provided in the preceding sentence by 40 per centum of (1) the average per pupil expenditure in Puerto Rico or (2) in the case where such average per pupil expenditure is more than 120 per centum of the average per pupil expenditure in the United States, 120 per centum of the average per pupil expenditure in the United States. In determining the number of migrant children for the purposes of this section the Commissioner shall use statistics made available by the migrant student record transfer system or such other system as he may determine most accurately and fully reflects the actual number of migrant students.

### Programs for Neglected or Delinquent Children

Sec. 123. (a) A State agency which is directly responsible for providing free public education for children in institutions for neglected or delinquent children or in adult correctional institutions shall be entitled to receive a grant under this section for any fiscal year (but only if grants received under this section are used only for children in such institutions).

(b) Except as provided in sections 124 and 125, the grant which such an agency (other than the agency for Puerto Rico) shall be eligible to receive shall be an amount equal to 40 per centum of the average per pupil expenditure in the State (or (1) in the case where the average per pupil expenditure in the State is less than 80 per centum of the average per pupil expenditure in the United States, of 80 per centum of the average per pupil expenditure in the United States, or (2) in the case where the average per pupil expenditure in the State is more than 120 per centum of the average per pupil expenditure in the United States, of 120 per centum of the average per pupil expenditure in the United States) multiplied by the number of such children in average daily attendance, as determined by the Commissioner, at schools for such children operated or supported by that agency, including schools providing education for such children under contract or other arrangement with such agency, in the most recent fiscal year for which satisfactory data are available. The grant which Puerto Rico shall be eligible to receive under this section shall be the amount arrived at by multiplying the number of children in Puerto Rico counted as provided in the preceding sentence by 40 per centum of (1) the average per pupil expenditure in Puerto Rico or (2) in the case where such average per pupil expenditure is more than 120 per centum of the average per pupil expenditure in the United States, 120 per centum of the average per pupil expenditure in the United States.

(c) A State agency shall use payments under this section only for programs and projects (including the acquisition of equipment and where necessary the construction of school facilities) which are designed to meet the special educational needs of such children.

### Reservation of Funds for Territories

Sec. 124. There is authorized to be appropriated for each fiscal year for purposes of each of sections 121, 122, and 123, an amount equal to not more than 1 per centum of the amount appropriated for such year for such sections for payments to Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands under each such section. The amounts appropriated for each such section shall be allotted among Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective need for such grants, based on such criteria as the Commissioner determines will best carry out the purposes of this title.

### Minimum Payments for State Operated Programs

Sec. 125. Except as provided in section 843 of the Education Amendments of 1974, no State agency shall receive in any fiscal year prior to July 1, 1978, pursuant to sections 121, 122, or 123 an amount which is less than 100 per centum of the amount which that State agency received in the prior fiscal year pursuant to such sections 121, 122, or 123, respectively.

## Part B—Special Incentive Grants

### MAXIMUM ENTITLEMENT

Sec. 126. (a) In the case of any fiscal year ending after June 30, 1969, each State shall be entitled to a special incentive grant if such State has an effort index for the second preceding fiscal year that exceeds the national effort index for such year.

(b) The maximum amount of a special incentive grant for which a State is eligible for any fiscal year shall be determined by multiplying the amount of $1 for each 0.01 per centum by which the effort index of that State for the second preceding fiscal year exceeds the national effort index for such year times the aggregate number of children counted for the purposes of entitled local educational agencies within such State to basic grants in accordance with clauses (2), (5), (6), and (7) of section 103(a), except that no State shall be eligible to receive a special incentive grant under this part in an amount in excess of 15 per centum of the total amount available for grants under this part.

### APPLICATION; USE OF FUNDS

Sec. 127. Any State desiring the special incentive grant to which it is entitled under this part for any fiscal year shall make application therefor, in accordance with the requirements set forth in section 142, to the Commissioner. Such application shall be submitted at such time and contain such information as the Commissioner shall require by regulation and shall contain a statement of such policies and procedures as will insure that funds granted to the State under this part will be (1) made available to local educational agencies within that State which have the greatest need for assistance under this title, and (2) used, in accordance with the applicable provisions of this title, for programs and projects designed to meet the special educational needs of educationally deprived children.

### DEFINITIONS

Sec. 128. For the purpose of this part the term "effort index" when applied to States, means the per centum expressing the ratio of expenditures from all non-Federal sources in a State for public elementary and secondary education to the total personal income in such State, and the term "national effort index" means the per centum expressing the ratio of such expenditures in all States to the total personal income in all States; and the term "State" means the fifty States and the District of Columbia.

## PART C—SPECIAL GRANTS

### ELIGIBILITY AND MAXIMUM AMOUNT OF SPECIAL GRANTS

Sec. 131. (a) Each local educational agency in a State which is eligible for a grant under this title for any fiscal year shall be entitled to an additional grant for that fiscal year if it meets the requirements of subsection (b). The amount of such grant shall be determined in accordance with subsection (c).

(b)(1) A local educational agency shall be entitled to a grant under this part for any fiscal year if the school district of such agency is located in a county in which—

(A) The number of children described in paragraph (2) for such year amounts to at least 200 per centum of the average number of such children in all counties in the State in which such agency is located for that fiscal year; or

(B) The number of children so described in such county for such year is 10,000 and amounts to 5 per centum of the total number of children in such county.

(2) For the purposes of paragraph (1), the children counted with respect to a local educational agency shall be those children in such county who are—

(A) In families having an annual income of $3,000 or less; or

(B) In families receiving an annual income in excess of $3,000 from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act; or

(C) Living in institutions for neglected or delinquent children or being supported in foster homes with public funds.

(3)(A) Determinations with respect to numbers of children in any county under paragraph (2) shall be made by the Commissioner on the basis of the most recent satisfactory data available to him.

(B)(i) The number of children determined with respect to one or more counties shall be allocated by the Commissioner, for the purposes of paragraph (2), among the local educational agencies with school districts located in such county or counties.

(ii) In any case where—

(I) Two or more local educational agencies serve, in whole or in part, the same geographical area; or

(II) A local educational agency provides free public education for a substantial number of children who reside in the school district of another local educational agency, the Commissioner may allocate the number of children determined under this subsection among such agencies in such a manner as will best achieve the purposes of this section.

(C)(i) For the purposes of paragraph (2), the Commissioner shall determine the number of children from families having an annual income of $3,000 or less on the basis of the most recent satisfactory data available from the Department of Commerce. At any time such data for a county are available in the Department of Commerce, such data shall be used in making calculations under this subsection.

(ii) For the purposes of this subsection, the Secretary of Health, Education, and Welfare shall determine the number of children from families receiving an annual income in excess of $3,000 from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act and the number of children living in institutions for neglected or delinquent children or being supported in foster homes with public funds, on the basis of caseload data for the month of January of the preceding fiscal year, or to the extent that such data are not available to him before April 1 of the calendar year in which the determination is made, then on the basis of the most recent data available to him at the time of such determination. For the purposes of this subsection, the Secretary shall consider all children who are in correctional institutions to be living in institutions for delinquent children.

(c) The amount of the grant to which a local educational agency shall be entitled for any fiscal year shall be—

(A) The number of children determined with respect to such agency under subsection (b); multiplied by—

(B) 50 per centum of the average per pupil expenditure of all the local educational agencies in the State in which such agency is located.

(d) Notwithstanding any other provision of this section, no payments for any fiscal year under this part to the local educational agencies in a single State shall exceed 12 per centum of the aggregate payments to all local educational agencies in that year under this part.

(e)(1) The aggregate of the amount for which all local educational agencies are eligible under this part shall not exceed $75,000,000 for any fiscal year. If, for any fiscal year, such aggregate, as computed without regard to the preceding sentence, exceeds $75,000,000, the amount for which each local educational agency is eligible shall be reduced ratably until such aggregate does not exceed such limitation.

(2) For the purpose of making payments under this part there are authorized to be appropriated not in excess of $75,000,000 for the fiscal year ending June 30, 1975.

(f) For the purposes of this section, the term—

(1) "State" means the fifty States and the District of Columbia; and

(2) "children" includes all children aged five through seventeen, inclusive.

(Ed. Note: Effective July 1, 1975, part C of such title I is repealed.)

## PART D—GENERAL PROVISIONS

### APPLICATION

Sec. 141. (a) A local educational agency may receive a grant under this title for a fiscal year only upon application therefor approved by the appropriate State educational agency, upon its determination (consistent with such basic criteria as the Commissioner may establish)—

(1) That payments under this title will be used for the excess costs of programs and projects (including the acquisition of equipment, payments to teachers of amounts in excess of regular salary schedules as a bonus for service in schools eligible for assistance under this title, the training of teachers, and, where necessary, the construction of school facilities and plans made or to be made for such programs, projects, and facilities) (A) which are designed to meet the special educational needs of educationally deprived children in school attendance areas having high concentrations of children from low-income families (and at the discretion of the local educational agency, in any school of such agency not located in such a school attendance area, at which the proportion of children in actual average daily attendance from low-income families is substantially the same as the proportion of such children in such an area of that agency) and (B) which are of sufficient size, scope, and quality to give reasonable promises of substantial progress toward meeting those needs and to this end involve an expenditure of not less than $2,500, except that the State educational agency may with respect to any applicant reduce the $2,500 requirement if it determines that it would be impossible, for reasons such as distance or difficulty of travel, for the applicant to join effectively with other local educational agencies for the purpose of meeting the requirement; and nothing herein shall be deemed to preclude two or more local educational agencies from entering into agreements, at their option, for carrying out jointly operated programs and projects under this title: *Provided*, That the amount used for plans for any fiscal year shall not exceed 1 per centum of the amount determined for that agency for that year pursuant to section 103 or $2,000, whichever is greater;

(2) That the local educational agency has provided satisfactory assurance that section 141A will be complied with;

(3) That (A) the local educational agency has provided satisfactory assurance that the control of funds provided under this title, and title to property derived therefrom, shall be in a public agency for the uses and purposes provided in this title, and that a public agency will administer such funds and property, (B) Federal funds made available under this title will be so used (i) as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for the education of pupils participating in programs and projects assisted under this title, and (ii) in no case, as to supplant such funds from non-Federal sources, and (C) State and local funds will be used in the district of such agency to provide services in project areas which, taken as a whole, are at least comparable to services being provided in areas in such district which are not receiving funds under this title: *Provided*, That any finding of noncompliance with this clause shall not affect the payment of funds to any local educational agency until the fiscal year beginning July 1, 1972, and *Provided further*, That each local educational agency receiving funds under this title

shall report on or before July 1, 1971, and on or before July 1 of each year thereafter with respect to its compliance with this clause;

(4) In the case of any project for construction of school facilities, that the project is not inconsistent with overall State plans for the construction of school facilities and that the requirements of section 433 of the General Education Provisions Act will be complied with on all such construction projects;

(5) In the case of an application for payments for planning, (A) that the planning was or will be directly related to programs or projects to be carried out under this title and has resulted, or is reasonably likely to result in a program or project which will be carried out under this title, and (B) that planning funds are needed because of the innovative nature of the program or project or because the local educational agency lacks the resources necessary to plan adequately for programs and projects to be carried out under this title:

(6) That effective procedures, including provisions for appropriate objective measurements of educational achievement, will be adopted for evaluating at least annually the effectiveness of the programs in meeting the special educational needs of educationally deprived children;

(7) That the local educational agency will make an annual report and such other reports to the State educational agency, in such form and containing such information (which in the case of reports relating to performance is in accordance with specific performance criteria related to program objectives), as may be reasonably necessary to enable the State educational agency to perform its duties under this title, including information relating to the educational achievement of students participating in programs carried out under this title, and will keep such records and afford such access thereto as the State educational agency may find necessary to assure the correctness and verification of such reports;

(8) That the local educational agency is making the application and all pertinent documents related thereto available to parents and other members of the general public and that all evaluations and reports required under paragraph (7) shall be public information;

(9) In the case of a project for the construction of school facilities, that, in developing plans for such facilities due consideration has been given to compliance with such standards as the Secretary may prescribe or approve in order to insure that facilities constructed with the use of Federal funds under this title shall be, to the extent appropriate in view of the uses to be made of the facilities, accessible to and usable by handicapped persons;

(10) That effective procedures will be adopted for acquiring and disseminating to teachers and administrators significant information derived from educational research, demonstration, and similar projects, and for adopting, where appropriate, promising educational practices developed through such projects;

(11) In the case of a project for the construction of school facilities, that, in developing plans for such facilities, due consideration has been given to excellence of architecture and design, and to the inclusion of works of art (not representing more than 1 per centum of the cost of the project);

(12) In the case of projects involving the use of education aides, the local educational agency sets forth well-developed plans providing for coordinated programs of training in which education aides and the professional staff whom they are assisting will participate together;

(13) That, where a school attendance area does not meet the requirement of paragraph (1)(A) of this subsection for a fiscal year, or in the case of a local educational agency electing to allocate funds under section 150, where such an area does not meet the requirement of that section, but did meet the appropriate requirement in either of the two preceding fiscal years, that school attendance area shall be considered to meet the applicable criterion for that fiscal year; and

(14) That the local educational agency shall establish an advisory council for the entire school district and shall establish an advisory council for each school of such agency served by a program or project assisted under section 143(a)(2), each of which advisory councils—

(A) Has as a majority of its members parents of the children to be served,

(B) Is composed of members selected by the parents in each school attendance area,

(C) Has been given responsibility by such agency for advising it in the planning for, and the implementation and evaluation of, such programs and projects, and

(D) Is provided by such agency, in accordance with regulations of the Commissioner, with access to appropriate information concerning such programs and projects.

(b) It is the intent of the Congress to encourage, where feasible, the development for each educationally deprived child participating in a program under this title of an individualized written educational plan (maintained and periodically evaluated), agreed upon jointly by the local educational agency, a parent or guardian of the child, and when appropriate, the child.

(c) The State educational agency shall not finally disapprove in whole or in part any application for funds under this title without first affording the local educational agency submitting the application reasonable notice and opportunity for a hearing.

### PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS

SEC. 141A.(a) To the extent consistent with the number of educationally deprived children in the school district of the local educational agency who are enrolled in private elementary and secondary schools, such agency shall make provision for including special educational services and arrangements (such as dual enrollment, educational radio and television, and mobile educational services and equipment) in which such children can participate and meeting the requirements of clauses (A) and (B) of paragraph (1) of subsection (a) of section 141, paragraph (2) of subsection (a) of such section, and clauses (A) and (B) of paragraph (3) of subsection (a) of such section 141.

(b)(1) If a local educational agency is prohibited by law from providing for the participation in special programs for educationally deprived children enrolled in private elementary and secondary schools as required and secondary schools as required by subsection (a), the Commissioner shall waive such requirement and the provisions of section 141(a)(2), and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of subsection (a).

(2) If the Commissioner determines that a local educational agency has substantially failed to provide for the participation on an equitable basis of educationally deprived children enrolled in private elementary and secondary schools as required by subsection (a), he shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of subsection (a), upon which determination the provisions of paragraph (a) and section 141(a)(2) shall be waived.

(3) When the Commissioner arranges for services pursuant to this section, he shall, after consultation with the appropriate public and private school officials, pay the cost of such services from the appropriate allocation or allocations under this title.

(4)(A) The Commissioner shall not take any final action under this section until he has afforded the State educational agency and local educational agency affected by such action at least sixty days notice of his proposed action and an opportunity for a hearing with respect thereto on the record.

(B) If a State or local educational agency is dissatisfied with the Commissioner's final action after a hearing under subparagraph (A) of this paragraph, it may within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

(C) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(D) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

### ASSURANCES FROM STATES

SEC. 142. (a) Any State desiring to participate under this title (except with respect to the program provided for in section 122 relating to migratory children of migratory agricultural workers) shall submit through its State educational agency to the Commissioner an application, in such detail as the Commissioner deems necessary, which provides satisfactory assurance—

(1) That, except as provided in section 143(b), payments under this title will be used only for programs and projects which have been approved by the State educational agency pursuant to section 141(a) and which meet the applicable requirements of that section and section 121 and that such agency will in all other respects comply with the provisions of this title, including the enforcement of any obligations imposed upon a local educational agency under section 141(a);

(2) That such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the State (including such funds paid by the State to local educational agencies) under this title; and

(3) That the State educational agency will make to the Commissioner (A) periodic reports (including the results of objective measurements required by section 141(a)(6) and of research and replication studies) evaluating the effectiveness of payments under this title and of particular programs assisted under it in improving the educational attainment of educationally deprived children, and (B) such other reports as may be reasonably necessary to enable the Commissioner to perform his duties under this title (including such reports as he may require to determine the amounts which the local educational agencies of that State are

eligible to receive for any fiscal year), and assurance that such agency will keep such records and afford such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

(b) The Commissioner shall approve an application which meets the requirements specified in subsection (a), and he shall not finally disapprove an application except after reasonable notice and opportunity for a hearing to the State educational agency.

### Payment[1]

Sec. 143(a)(1) The Commissioner shall, subject to the provisions of section 144, from time to time pay to each State, in Advance or otherwise, the amount which it and the local educational agencies of that State are eligible to receive under this title. Such payments shall take into account the extent (if any) to which any previous payment to such State educational agency under this title (whether or not in the same fiscal year) was greater or less than the amount which should have been paid to it.

(2) From the funds paid to it pursuant to paragraph (1) each State educational agency shall distribute to each local educational agency of the State which is not ineligible by reason of section 103(b) and which has submitted an application approved pursuant to section 141(a) the amount for which such application has been approved, except that this amount shall not exceed the amount determined for that agency pursuant to section 103.

(b) The Commissioner is authorized to pay to each State amounts equal to the amounts expended by it for the proper and efficient performance of its duties under this title (including technical assistance for the measurements and evaluations required by section 141(a)(6)), except that the total of such payments in any fiscal year shall not exceed—

(1) 1 Per centum of the amount allocated to the State and its local educational agencies as determined for that year under this title; or

(2) $150,000, or $25,000 in the case of Guam, American Samoa, the Virgin Islands, or the Trust Territory of the Pacific Islands, whichever is the greater.

(c)(1) No payments shall be made under this title for any fiscal year to a State which has taken into consideration payments under this title in determining the eligibility of any local educational agency in that State for State aid, or the amount of that aid, with respect to the free public education of children during that year or the preceding fiscal year.

(2) No payments shall be made under this title to any local educational agency for any fiscal year unless the State educational agency finds that the combined fiscal effort (as determined in accordance with regulations of the Commissioner) of that agency and the State with respect to the provision of free public education by that agency for the preceding fiscal year was not less than such combined fiscal effort for that purpose for the second preceding fiscal year.

### Adjustments Where Necessitated By Appropriations

Sec. 144. If the sums appropriated for any fiscal year for making the payments provided in this title are not sufficient to pay in full the total amounts which all local and State educational agencies are entitled to receive under this title for such year, the amount available for each grant to a State agency eligible for a grant under section 121, 122, or 123 shall be equal to the total amount of the grant as computed under each such section. If the remainder of such sums available after the application of the preceding sentence is not sufficient to pay in full the total amounts which all local educational agencies are entitled to receive under part A of this title for such year, the allocations to such agencies and allocations under part B shall, subject to adjustments under the next sentence, be ratably reduced to the extent necessary to bring the aggregate of such allocations within the limits of the amount so appropriated, except that entitlements under such part B shall be taken into consideration only to the extent that appropriations for such title I (excluding part C thereof) exceed $1,396,975,000 for any fiscal year and such entitlements shall not exceed $50,000,000 in any fiscal year. The allocation of a local educational agency which would be reduced under the preceding sentence to less than 85 per centum of its allocation under part A for the preceding fiscal year, shall be increased to such amount, the total of the increases thereby required being derived by proportionately reducing the allocations of the remaining local educational agencies, under the preceding sentence, but with such adjustments as may be necessary to prevent the allocation to any remaining local educational agency from being thereby reduced to less than 85 per centum of its allocation for such year. If the aggregate of the amounts to which all States are entitled under such part B exceeds $50,000,000 the entitlement of each State shall be reduced ratably until such aggregate does not exceed $50,000,000 in such fiscal year.

In case additional funds become available for making payments under this title or that year, such reduced amounts shall be increased on the same basis that they were reduced. In order to permit the most effective use of all appropriations made to carry out this title, the Commissioner may set dates by which (1) State educational agencies must certify to him the amounts for which the applications of educational agencies have been or will be approved by the State, and (2) State educational agencies referred to in section 122 must file applications. If the maximum grant a local educational agency or an agency referred to in section 122 would receive (after any ratable reduction which may have been required under the first sentence of this section) is more than an amount which the State educational agency determines, in accordance with regulations prescribed by the Commissioner, such agency will use, the excess amount shall be made available first to educational agencies in that State. Determinations of the educational agencies to which such excess amounts shall be made available shall be made by the State educational agency in furtherance of the purposes of this title in accordance with criteria prescribed by the Commissioner which are designed to assure that such excess amounts will be made available to other eligible educational agencies with the greatest need, for the purpose of, where appropriate, redressing inequities inherent in, or mitigating hardships caused by, the application of the provisions of paragraph (2) of section 103(a) as a result of such factors as population shifts and changing economic circumstances. In the event excess amounts remain after carrying out the preceding two sentences of this section, such excess amounts shall be distributed among the other States as the Commissioner shall prescribe for use by local educational agencies in such States for the purposes of this title in such manner as the respective State educational agencies shall prescribe.

### Withholdings

Sec. 146. Whenever the Commissioner, after reasonable notice and opportunity for hearing to any State educational agency, finds that there has been a failure to comply substantially with any assurance set forth in the application of that State approved under section 122 or 142(b) the Commissioner shall notify the agency that further payments will not be made to the State under this title (or, in his discretion, that the State educational agency shall not make further payments under this title to specified local educational agencies affected by the failure) until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied, no further payments shall be made to the State under this title, or payments by the State educational agency under this title shall be limited to local educational agencies not affected by the failure, as the case may be.

### Judicial Review

Sec. 147. (a) If any State is dissatisfied with the Commissioner's final action with respect to the approval of its application submitted under section 122 or 142(b) or with his final action under section 146, such State may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

(b) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(c) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

### National Advisory Council

Sec. 148. (a) There shall be a National Advisory Council on the Education of Disadvantaged Children (hereinafter in this section referred to as the "National Council") consisting of fifteen members appointed by the President, without regard to the provisions of title 5, United States Code, governing appointment in the competitive service, for terms of three years, except that (1) in the case of initial members, five shall be appointed for terms of one year each and five shall be appointed for terms of two years each, and (2) appointments to fill vacancies shall be only for such terms as remain unexpired. The National Council shall meet at the call of the Chairman.

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[1] (Ed. Note: Section 943(d) of Pub. L. 93-380 provides: "Notwithstanding any provision of part A of title I of the Elementary and Secondary Education Act of 1965, the amount which the Commonwealth of Puerto Rico is eligible to receive under subpart 1 of such part A or under sections 121, 122, or 123 for the fiscal year ending June 30, 1975, shall not exceed 50 per centum of the full amount the Commonwealth of Puerto Rico would receive (after required ratable reductions) under such subpart or section but for this subsection, and for the fiscal years ending June 30, 1976, June 30, 1977, and June 30, 1978, such amount shall not exceed 75 per centum of the full amount the Commonwealth of Puerto Rico would receive (after required ratable reductions) under such subpart or section but for this subsection.")

(b) The National Council shall review and evaluate the administration and operation of this title, including its effectiveness in improving the educational attainment of educationally deprived children, including the effectiveness of programs to meet their occupational and career needs, and make recommendations for the improvement of this title and its administration and operation. These recommendations shall take into consideration experience gained under this and other Federal educational programs for disadvantaged children and, to the extent appropriate, experience gained under other public and private educational programs for disadvantaged children.

(c) The National Council shall make such reports of its activities, findings, and recommendations (including recommendations for changes in the provisions of this title) as it may deem appropriate and shall make an annual report to the President and the Congress not later than March 31 of each calendar year. Such annual report shall include a report specifically on which of the various compensatory education programs funded in whole or in part under the provisions of this title, and of other public and private educational programs for educationally deprived children, hold the highest promise for raising the educational attainment of these educationally deprived children. The President is requested to transmit to the Congress such comments and recommendations as he may have with respect to such report. Subject to section 448(b) of the General Education Provisions Act, the National Council shall continue to exist until July 1, 1978.

### Treatment of Earnings for Purposes of Aid to Families With Dependent Children

Sec. 149. (a) Notwithstanding the provisions of title IV of the Social Security Act, a State plan approved under section 402 of such Act shall provide that for a period of not less than twelve months, and may provide that for a period of not more than twenty-four months, the first $85 earned by any person in any month for services rendered to any program assisted under this title of this Act shall not be regarded (A) in determining the need of such person under such approved State plan or (B) in determining the need of any other individual under such approved State plan.

(b) Notwithstanding the provisions of subsection (a) of this section, no funds to which a State is otherwise entitled under title IV of Social Security Act for any period before the fourth month after the adjournment of the State's first regular legislative session which adjourns more than sixty days after enactment of the Elementary and Secondary Education Amendments of 1966, shall be withheld by reason of any action taken pursuant to a State statute which prevents such State from complying with the requirements of subsection (a) of this section.

### Allocation of Funds Within the School District of a Local Educational Agency

Sec. 150. (a) For any fiscal year not more than 20 local educational agencies selected for the purpose of section 821(a)(5) of the Education Amendments of 1974 may elect, with the approval of the district-wide parent advisory council which is required to be established under section 141(a)(14) of this title, to allocate funds received from payments under this title on the basis of a method or combination of methods other than the method provided under section 141(a)(1)(A). Any method selected pursuant to this section shall be so designed and administered as to be free from racial or cultural discrimination.

(b) Any local educational agency to which this section applies shall submit such reports to the Director of the National Institute of Education at such time and in such manner as the Director may reasonably require to carry out his responsibilities under section 821(a)(5) of the Education Amendments of 1974.

### Program Evaluation

Sec. 151. (a) The Commissioner shall provide for independent evaluations which describe and measure the impact of programs and projects assisted under this title. Such evaluations may be provided by contract or other arrangements, and all such evaluations shall be made by competent and independent persons, and shall include, whenever possible, opinions obtained from program or project participants about the strengths and weaknesses of such programs or projects.

(b) The Commissioner shall develop and publish standards for evaluation of program or project effectiveness in achieving the objectives of this title.

(c) The Commissioner shall, where appropriate, consult with State agencies in order to provide for jointly sponsored objective evaluation studies of programs and projects assisted under this title within a State.

(d) The Commissioner shall provide to State educational agencies, models for evaluations of all programs conducted under this title, for their use in carrying out their functions under section 143(a), which shall include uniform procedures and criteria to be utilized by local educational agencies, as well as by the State agency in the evaluation of such programs.

(e) The Commissioner shall provide such technical and other assistance as may be necessary to State educational agencies to enable them to assist local educational agencies in the development and application of a systematic evaluation of programs in accordance with the models developed by the Commissioner.

(f) The models developed by the Commissioner shall specify objective criteria which shall be utilized in the evaluation of all programs and shall outline techniques (such as longitudinal studies of children involved in such programs) and methodology (such as the use of tests which yield comparable results) for producing data which are comparable on a statewide and nationwide basis.

(g) The Commissioner shall make a report to the respective committees of the Congress having legislative jurisdiction over programs authorized by this title and the respective Committees on Appropriations concerning his progress in carrying out this section not later than January 31, 1975, and thereafter he shall report to such committees no later than January 31 of each calendar year the results of the evaluations of programs and projects required under this section, which shall be comprehensive and detailed, as up-to-date as possible, and based to the maximum extent possible on objective measurements, together with any other related finding and evaluations and his recommendations with respect to legislation.

(h) The Commissioner shall also develop a system for the gathering and dissemination of results of evaluations and for the identification of exemplary programs and projects, or of particularly effective elements of programs and projects, and for the dissemination of information concerning such programs and projects or such elements thereof to State and local educational agencies responsible for the design and conduct of programs and projects under this title, and to the education profession and the general public.

(i) The Commissioner is authorized, out of funds appropriated to carry out this title in any fiscal year, to expend such sums as may be necesary to carry out the provisions of this section, but not to exceed one-half of 1 per centum of the amount appropriated for such program, of which $5,000,000 for each fiscal year ending prior to July 1, 1977, shall be available only for the surveys and studies authorized by section 821 of the Education Amendments of 1974.

### Definitions [1]

Sec. 403. For the purposes of this Act—

(1) The term "Federal property" means real property which is owned by the United States or is leased by the United States, and which is not subject to taxation by any State or any political subdivision of a State or by the District of Columbia. Such term includes, (A) except for purposes of section 6, real property held in trust by the United States for individual Indians or Indian tribes, which is subject to restrictions on alienation imposed by the United States, (B) for one year beyond the end of the fiscal year in which occurred the sale or transfer thereof by the United States, any property considered prior to such sale or transfer to be Federal property for the purposes of this Act, and (C) any school which is providing flight training to members of the Air Force under contractual arrangements with the Department of the Air Force at an airport which is owned by a State or a political subdivision of a State. Such term also includes any interest in Federal property (as defined in the foregoing provisions of this paragraph) under an easement, lease, license, permit, or other arrangement, as well as any improvements of any nature (other than pipelines or utility lines) on such property even though such interests or improvements are subject to taxation by a State or political subdivision of a State or by the District of Columbia. Notwithstanding the foregoing provisions of this paragraph, such term does not include (A) any real property used for a labor supply center, labor home, or labor camp for migratory farmworkers, (B) any real property under the jurisdiction of the Post Office Department and used primarily for the provision of postal services, or (C) any low-rent housing project held under title II of the National Industrial Recovery Act, the Emergency Relief Appropriation Act of 1935, the United States Housing Act of 1937, the Act of June 28, 1940 (Pub. L. 671 of the Seventy-sixth Congress), or any law amendatory of or supplementary to any such Act.

(2) The term "child", except as used in title II, means any child who is within the age limits for which the applicable State provides free public education.

(3) The term "parent" includes a legal guardian or other person in loco parentis.

(4) The term "free public education" means education which is provided at public expense, under public supervision and direction, and without tuition charge, and which is provided as elementary or secondary school education in the applicable State, except that for the purposes of title II such term does not include any education provided beyond grade 12.

(5) The term "current expenditures" means expenditures for free public education, including expenditures for administration, instruction, attendance and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities, but not including expenditures for community services, capital outlay, and debt service, or any expenditures made from funds granted under title II of this Act or title II or III of the

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[1] Applicable to Title I of ESEA, originally enacted as Title II of Pub. L. 81-874. "Title II" as used in these definitions means Title I of the Elementary and Secondary Education Act of 1965.

Elementary and Secondary Education Act of 1965.

(6)(A) Ed. Note: Omitted because not applicable.

(B) For purposes of title II, the term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term includes any other public institution or agency having administrative control and direction of a public elementary or secondary school, and it also includes (except for purposes of sections 203(a)(2), 203(b), and 205(a)(1)) any State agency which is directly responsible for providing free public education for handicapped children (including mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, crippled, or other health impaired children who by reason thereof require special education) or for children in institutions for neglected or delinquent children.

(7) The term "State educational agency" means the officer or agency primarily responsible for the State supervision of public elementary and secondary schools.

(8) The term "State" means a State, Puerto Rico, Wake Island, Guam, the District of Columbia, American Samoa, or the Virgin Islands, and for purposes of title II, such term includes the Trust Territory of the Pacific Islands.

(9) The terms "Commissioner of Education" and "Commissioner" mean the United States Commissioner of Education.

(10) Average daily attendance shall be determined in accordance with State law, except that (A) the average daily attendance of children with respect to whom payment is to be made under section 3 or 4 of this Act shall be determined in accordance with regulations of the Commissioner, and (B) notwithstanding any other provision of this Act, where the local educational agency of the school district in which any child resides makes or contracts to make a tuition payment for the free public education of such child in a school situated in another school district, for purposes of this Act the attendance of such child at such school shall be held and considered (i) to be attendance at a school of the local educational agency so making or contracting to make such tuition payment, and (ii) not to be attendance at a school of the local educational agency receiving such tuition payment or entitled to receive such payment under the contract.

(11) The term "county" means those divisions of a State utilized by the Secretary of Commerce in compiling and reporting data regarding counties.

(12) The term "construction" includes the preparation of drawings and specifications for school facilities; erecting, building, acquiring, altering, remodeling, improving, or extending school facilities; and the inspection and supervision of the construction of school facilities.

(13) The term "school facilities" means classrooms and related facilities (including initial equipment) for free public education and interests in land (including site, grading, and improvements) on which such facilities are constructed, except that such term does not include those gymnasiums and similar facilities intended primarily for exhibitions for which admission is to be charged to the general public.

(14) The term "equipment" includes machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, and includes all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture, printed, published, and audio-visual instructional materials, and books, periodicals, documents, and other related materials.

(15) For the purpose of title II, the term "elementary school" means a day or residential school which provides elementary education, as determined under State law, and the term "secondary school" means a day or residential school which provides secondary education, as determined under State law, except that it does not include any education, provided beyond grade 12.

(16) For purposes of title II, the "average per pupil expenditure" in a State, or in the United States, shall be the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the computation is made (or if satisfactory data for that year are not available at the time of computation, then during the most recent preceding fiscal year for which satisfactory data are available), of all local educational agencies as defined in section 403(6)(B) in the State, or in the United States (which for the purposes of this subsection means the fifty States, and the District of Columbia), as the case may be, plus any direct current expenditures by the State for operation of such agencies (without regard to the source of funds from which either of such expenditures are made), divided by the aggregate number of children in average daily attendance to whom such agencies provided free public education during such preceding year.

(17) For the purposes of title II, "excess costs" means those costs directly attributable to programs and projects which exceed the average per pupil expenditure of a local educational agency in the most recent year for which satisfactory data are available for pupils in the grade or grades included in such programs or projects (but not including expenditures for any comparable State or local special programs for educationally deprived children or expenditures for bilingual programs or special education for handicapped children or children with specific learning disabilities, if such expenditures for bilingual eduation and special education are used to provide, to children of limited English-speaking ability and handicapped children, and children with specific learning disabilities who reside in title I project areas, services which are comparable to those provided to similarly disadvantaged children residing in nonproject areas).

## PART 116a—FINANCIAL ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES TO MEET THE SPECIAL EDUCATIONAL NEEDS OF EDUCATIONALLY DEPRIVED AND NEGLECTED AND DELINQUENT CHILDREN

Subpart A—General

Sec.

116a.1 Applicability.
116a.2 Definitions.

Subpart B—Eligibility for and Amount of Grants

116a.3 Eligibility of local educational agencies.
116a.4 Determination of grant which a local educational agency in a State is eligible to receive.
116a.5 Allocation of county aggregate grants by State educational agencies.
116a.6 Local educational agencies in more than one county.
116a.7 Local educational agencies with overlapping jurisdictions or serving children from another school district.

Sec.

116a.8 Changes in local educational agencies.
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116a.10 Further assistance to certain local educational agencies.
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Subpart C—Program Requirements

116a.19 Project applications.
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116a.24 Bonus pay for teachers.
116a.25 Parent advisory councils.
116a.26 Comparability of services.

Authority: Section 2, Pub. L. 89-10, 79 Stat. 27, as amended, (20 U.S.C. 241a-241m, 242, 244), unless otherwise noted.

### Subpart A—General

### § 116a.1 Applicability.

(a) The regulations in this part and the general regulations in Part 116 of this chapter govern programs and projects for which funds are provided to local educational agencies under Title I of the Elementary and Secondary Education Act to meet the special educational needs of educationally deprived children in school attendance areas with high concentrations of children from low-income families and for children in local institutions for neglected or delinquent children.

(b) Assistance provided under this part is subject to applicable provisions contained in the General Provisions for Education program regulations subchapter A of this chapter (relating to fiscal, administrative, property management and other matters) including Parts 100, 100b (and related appendices) and 100c.

(c) The text of the Title I statute is contained in full in the Appendix to Part 116 of this chapter.

(20 U.S.C. 241a)

### § 116a.2 Definitions.

As used in this part—

"Attendance area" means, in relation to a particular public school, the geographical area in which the children who are normally served by that school reside.

(20 U.S.C. 241e(a)(1))

"Educationally deprived children" means (1) children who have need for special educational assistance in order that their level of educational attainment may be raised to that appropriate for children of their age, and (2) children who are handicapped.

(20 U.S.C. 241e(a)(1)(A))

"Institution for delinquent children" means a public or private residential facility which is operated primarily for the care of children who have been adjudicated to be delinquent or in need of supervision. The term also includes an adult correctional institution in which children reside.

(20 U.S.C. 241c(c)(2) (B), (C))

"Institution for neglected children" means a public or private residential facility (other than a foster home) which is operated primarily for the care of at least ten children who have been committed to the institution, or voluntarily placed in the institution pursuant to applicable State law, because of the abandonment of or neglect by, or death of, parents or persons acting in the place of parents.

(20 U.S.C. 241c(c)(2) (B), (C))

"Project area" means an attendance area, or combination of attendance areas, having a high concentration of children from low-income families which, without regard to the locality of the project itself, is designated as an area from which children are to be selected to participate in a project.

(20 U.S.C. 241e(a)(1))

## Subpart B—Eligibility for and Amount of Grants

### § 116a.3 Eligibility of local educational agencies.

(a) A local educational agency in a State (other than Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands) is eligible for a grant under Title I for a fiscal year if the Commissioner determines, on the basis of satisfactory data available to him, that the number of children counted under section 103(c) of Title I for the school district of such agency for such year amounts to at least 10.

(b) If the Commissioner does not have available satisfactory data on a school district basis, a local educational agency is eligible for such a grant if the school district served by such agency is located in whole or in part in a county in which the Commissioner determines that there are 10 or more of such children.

(20 U.S.C. 241(c)(b))

### § 116a.4 Determination of grant which a local educational agency in a State is eligible to receive.

The grant which a local educational agency in a State (other than Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands) is eligible to receive under Subpart 1 of Part A of Title I for a fiscal year will be determined by the Commissioner in accordance with the provisions of sections 103(a)(2)–(4) and 103(c) of Title I, subject to the provisions of section 144 of such Title.

(20 U.S.C. 241c(a) (2), (3), (4), 241c(c))

### § 116a.5 Allocation of county aggregate grants by State educational agencies.

(a) *General.* Pursuant to Section 103 of Title I, the Commissioner is authorized to determine the grant which a local educational agency is eligible to receive, if satisfactory data are available from the Department of Commerce for such agencies. However, if such data are not available, these determinations are made for counties, and the State educational agencies allocate the county amounts among the local educational agencies in the counties. This section prescribes criteria for the allocation by a State educational agency of the aggregate amount determined for a county (under section 103(a)(2) of Title I) among the local educational agencies whose school districts are located in whole or in part in such county. Such aggregate amount is hereinafter referred to as the county aggregate grant.

(b) *Children in institutions.* To the extent that a county aggregate grant is based on the number of children aged 5 to 17, inclusive, living in institutions for neglected or delinquent children, the county aggregate grant shall be allocated on the basis of the location of such institutions in the various school districts of the local educational agencies concerned. For the purpose of this part, the number of such children shall be the number in the October caseload who have resided in the institution for at least 30 days. If a State educational agency determines that a local educational agency is unable or unwilling to provide for the special educational needs of such children, that portion of the grant of that local educational agency which is based on such children shall be assigned to the State educational agency if it assumes that responsibility. If the State educational agency does not assume that responsibility, it shall designate another State or local public agency that is able and willing to assume that responsibility. If no such public agency is found by the State educational agency, the amount attributable to such children shall be deducted from the local educational agency's allocation and shall not be available for reallocation.

(c) *Allocation of remainder of county grant.* Subject to applicable provisions of law (including the provisions of section 144 of Title I), the remainder of the county aggregate grant shall be allocated by the State educational agency among the several local educational agencies whose school districts lie (in whole or in part) within the county on the basis of the current distribution in the county of children aged 5 to 17, inclusive, from low-income families (using a poverty level selected by the State educational agency consistent with the purposes of Title I) as determined on the basis of the available data which such State educational agency deems best to reflect the current distribution in the county of children aged 5 to 17, inclusive, from low-income families. The following are considered acceptable types of data: (1) 1970 census data on the number of children from low-income families, and (2) data on children in families receiving payments under the program of aid to families with dependent children under a State plan approved under Title IV of the Social Security Act and foster children. Other types of data must be approved by the Commissioner before use by the State educational agency.

(20 U.S.C. 241c(a) (2), (3)(A))

### § 116a.6 Local educational agencies in more than one county.

The allocation made pursuant to § 116.5 to a local educational agency located in more than one county shall be made separately for each county in which a part of the school district served by that local educational agency is located. The grant for such a local educational agency shall be the sum of its allocations from the aggregate grants of the counties in which it is located.

(20 U.S.C. 241c(a)(2))

### § 116a.7 Local educational agencies with overlapping jurisdictions or serving children from another school district.

In any case in which two or more local educational agencies have responsibility for different groups of children in a school district, or serve school districts which overlap, or in any case in which a local educational agency provides free public education for a substantial number of children residing in the school district of another local educational agency, the State educational agency may allocate the amount of the grants for those agencies among them in such manner as it determines will best carry out the purposes for which the grants under Title I are made available.

(20 U.S.C. 241c(a)(3)(B))

### § 116a.8 Changes in local educational agencies.

(a) *Merger or consolidation.* In any case in which there is a merger or consolidation of local educational agencies during the school year, the grant which each such agency was eligible to receive shall become available to the surviving or consolidated agency. The surviving or consolidated agency shall be responsible for projects which have not been completed and were previously approved for each of the agencies participating in the merger or consolidation.

(b) *Changes in service areas.* In any case in which the geographical area of a school district served by a local educational agency is diminished, or divided with another local educational agency, during the school year, the State educational agency shall redetermine the grants by using the same method used in making the original determination. However, nothing herein shall preclude the completion, where appropriate, of previously approved projects by the agency originally submitting the projects by itself or through a cooperative undertaking.

(20 U.S.C. 241c(a)(2))

### § 116a.9 Ratable reductions.

If the sums appropriated for any fiscal year are not sufficient to pay in full the amounts which all local educational agencies are eligible to receive under Title I for that year, the amounts available to local educational agencies shall be determined in accordance with section 144 of Title I.

(20 U.S.C. 241h)

### § 116a.10 Further assistance to certain local educational agencies.

Section 101(a)(10) of Pub. L. 93–380 provides for an authorization of appropriations for each fiscal year to be allocated at the discretion of the Commissioner to assist local educational agencies whose total allocation under part A of Title I is 90 per centum or less than such allocation under such part A during the preceding fiscal year. The Commissioner will distribute any funds appropriated under section 101(a)(10) among local educational agencies described in the preceding sentence in such a manner as to raise the allocations for each such agency to 90 percent of its preceding fiscal year's allocation or as close to that level as the appropriation will permit. Any funds in excess of the amount required for that purpose shall be allocated by the Commissioner to those local educational agencies which would have received more than 90 percent of their preceding year's allocation if the "85 percent hold harmless" provisions of section 144 of Title I were not in effect. The Commissioner will make such allocations on the basis of the most satisfactory data available to him as to the amount each such local educational agency would have received in the absence of the "hold harmless" provision.

(20 U.S.C. 241b–1, 241h; Pub. L. 93–380, sec. 101(a)(10))

### § 116a.11 Reallocation.

(a) *States.* (1) The State educational agency in the States of the Union, the District of Columbia, and Puerto Rico shall determine not earlier than March 31 of a fiscal year the amounts allocated for that year to local educational agencies in excess of the amounts required for approved programs and projects and shall certify such amounts to the Commissioner. Such amounts shall be made available, first by State educational agencies to other educational agencies in the particular State but not so as to make available to an agency more than the maximum grant to which that agency is entitled. (2) The amounts made available under this paragraph for distribution within a State shall be distributed among the local educational agencies which apply for additional funds and which have the greatest needs to redress inequities inherent in, or mitigating hardships caused by, the application of the provisions of section 103(a)(2) of Title I and §§ 116a.4 and 116a.5. The needs of the local educational agencies, and the amounts to which they shall be eligible, shall be determined on the basis of the extent to which the State educational agency determines the application of those provisions fail, as a result of population shifts, changing economic conditions, or other reasons, to reflect actual needs. (3) In the event excess amounts are still available after applying the foregoing provisions of this paragraph, those excess amounts will be distributed by the Commissioner among other States of the Union or the District of Columbia, or Puerto Rico in accordance with their needs as determined by the Commissioner for use by local educational agencies having the greatest need therefor. In no event, however, will the total amount made available to an agency exceed the maximum grant to which that agency is entitled. (4) "Maximum grant" for the purpose of this subsection means the grant which a local educational agency is eligible to receive before the operation of the provision for ratable reductions as set forth in Section 144 of Title I and § 116a.9.

(b) *Outlying areas; Department of Interior.* By March 31 of each fiscal year the Commissioner may require (1) State educational agencies in Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands to certify to him the amounts for which applications have been or will, during that fiscal year, be approved by such agencies, and (2) the Department of the Interior to report the amount needed by that Department for Title I projects. The excess of the amounts made available to any of such agencies or the Department of the Interior over the amounts which the Commissioner determines are needed by them will be redistributed among eligible agencies according to their respective needs for such amounts as redetermined by the Commissioner at that time.

(20 U.S.C. 241h)

### § 116a.12 Special incentive grants.

(a) *General.* Subject to the provisions of section 144 of Title I any State of the Union and the District of Columbia shall be entitled to receive a grant pursuant to Part B of Title I if it meets the requirements of that Part.

(b) *Applications.* (1) An incentive grant under this section will be made to a State upon application therefor by the State educational agency to the Commissioner submitted not more than 30 days after the date on which the Commissioner notifies the State educational agency of the State's eligibility for such grant and the amount thereof, or by the end of the applicable fiscal year, whichever occurs earlier. (2) Such an application shall include information concerning the policies and procedures to be used in selecting the local educational agencies which will receive incentive grant funds and the amounts of such assistance. Such information shall be presented in detail sufficient to assure the Commissioner that incentive grant funds will be made available to local educational agencies in the State with the greatest need for assistance under Title I and in amounts corresponding to their respective needs. Such policies and procedures shall take into account factors appropriate for those purposes, including the amounts available to local educational agencies under Part A of Title I; the number and percentage of children from low-income families in the several school districts; the number and percentage of such children not otherwise being served under Title I; any sudden influx in the number of such children; dropout rates; the incidence and severity of special educational needs as indicated by test scores or other measures; the availability of funds from other sources for programs for educationally deprived children; and the local fiscal effort.

(c) *Use of funds.* Incentive grant funds shall be made available to a limited number of local educational agencies for specific projects which the State educational agency deems to be innovative or which: (1) Show special promise of success through the modification or revision of existing Title I programs; (2) are of sufficient size, scope, and quality as required by § 116a.22; (3) include performance criteria to be used in connection with the evaluation of such projects; and (4) otherwise meet the requirements for projects under Part A of Title I.

(20 U.S.C. 241d, 241d–1, 241d–2, 241g(b)(1))

### § 116a.13 Grants to local educational agencies in the outlying areas and payments to the Secretary of the Interior.

(a) *Allotments.* An amount equal to one per centum of the amount allotted for grants to local educational agencies in States as defined in section 103(a)(4) of Title I shall be allotted (1) for grants to local educational agencies of Guam, American Samoa, the Virgin Islands and the Trust Territory of the Pacific Islands and (2) for payments to the Secretary of the Interior. Such additional amounts shall be allotted as will assure that the amount for each such outlying area and for payments to the Secretary of the Interior shall not be less than the corresponding amount for fiscal year 1973.

(b) *Out-of-State Indian children.* The Secretary of the Interior shall, from the amount allotted to him in accordance with paragraph (a) make payments to local educational agencies upon such terms as the Commissioner finds will best carry out the purposes of Title I, with respect to Indian children who do not reside in the State in which such agency is located but who are being educated in the elementary and secondary schools of such agencies under special contracts with the Department of Interior. The use of such funds for the special educational needs of such children shall be approved by the State educational agency of the State in which the local educational agency is located and the Department. The amount available to a local educational agency shall not exceed for each such child 40 per centum of (1) the average per pupil expenditure in the State in which the agency is located or (2) 120 per centum of such expenditure in the United States, whichever is greater.

(c) *Agreements.* The remainder of the payments to be made to the Secretary of the Interior not required for the purposes of paragraph (b) shall be made pursuant to an agreement between the Commissioner and the Secretary of the Interior, containing such assurances and terms as the Commissioner determines will best achieve the purpose of Title I. Such agreement shall contain assurances that payments made pursuant to this paragraph will be used solely for programs and projects approved by the Secretary of the Interior which meet the applicable requirements of Title I, this Part, and Part 116.

(20 U.S.C. 241c(a)(1), 241c(d))

## Subpart C—Program Requirements

### § 116a.19 Project applications.

(a) *General.* Grants under Title I to a local educational agency may be made only on the basis of applications therefor which are submitted to the State educational agency and approved by it in an amount not in excess of the allocation of the funds made available for that local educational agency pursuant to § 116a.5 of Subpart B.

(b) *Projects and project areas.* (1) An application for a grant under Title I by a local educational agency shall set forth one or more projects specifically designed to meet the special educational needs of educationally deprived children residing in a school attendance area (or areas) having high concentrations of children from low-income families. (2) If the local educational agency has children living in institutions for neglected or delinquent children, who have been counted pursuant to section 103(c)(1)(C) of Title I and § 116a.5(b), then such application shall also set forth a project (or projects) designed specifically to meet special educational needs of such children.

(c) *Location of services.* The project itself shall be carried out at locations where the needs of the children can best be served.

(d) *Prohibition against assignment of allocation.* Subject to the reallocation authority in § 116a.11 of Subpart B, no local educational agency may assign any part of its allocation to another agency. This does not, however, prevent a State educational agency from exercising its authority under § 116a.7 nor prevent two or more applicants in one or more States from conducting a joint program or project (including a planning project) through a combined use of funds made available to them.

(20 U.S.C. 241a, 241e(a)(1), 241g(a)(2))

### § 116a.20 Selection of Title I attendance areas.

(a) *Designation of project areas.* An application for a grant under Title I by a local educational agency (other than an application for a grant for planning) shall designate the project area or the institution for which each project set forth in the application is designed. The project area must be sufficiently restricted in size in relation to the nature of the project as to avoid jeopardizing the effectiveness of the project in meeting its aims and objectives.

(b) *Eligibility of attendance areas.* (1) Except as otherwise provided in paragraphs (g) and (h) and section 150 of Title I of the Act, a school attendance area for either a public elementary school or a public secondary school may be designated as a project area, or for inclusion in a project area, if it has, on a percentage or numerical basis, a high concentration of children from low-income families.

(2) An attendance area may be designated under paragraph (1) on a percentage basis if the percentage of children from low-income families in that attendance area is at least as high as the percentage of such children residing in the whole of the school district. In addition, upon specific request by the local educational agency, the State educational agency may approve the designation of attendance areas in which at least 30 percent of the children are from low-income families. For the purposes of the preceding sentence, such children includes only children who are determined to be eligible for free lunches, pursuant to the criteria established by the appropriate State educational agency pursuant to the National School Lunch Act (42 U.S.C. 1758b) and for which regulations are provided in 7 CFR 245.

(3) An attendance area may be designated under paragraph (1) on a numerical basis if the estimated number of children from low-income families residing in that attendance area is at least as large as the average number of such children residing in each of the several school attendance areas in the school district.

(4) If a combination of the numerical and percentage basis is used, the number of attendance areas actually designated under paragraph (1) may not exceed the number of such areas that could be so designated if only one such method had been used.

(5) Each of the provisions of this paragraph and of paragraphs (c), (d), (g), and (h) of this section may be applied separately to groups of schools (e.g., elementary, junior high school or middle school, and secondary) grouped in accordance with § 116a.26(l)(1) and (2).

(20 U.S.C. 241e(a)(1)(A))

(c) *Ranking of attendance areas.* (1) Except upon request to and approval by the State educational agency based on an assessment of particular educational needs in accordance with subparagraph (2) of this paragraph, a local educational agency shall not designate a school attendance area as a project area (or for inclusion in a project area) unless all attendance areas with a higher percentage or number of children of low-income families (depending on the method used to determine the eligibility of the school attendance area) have been so designated or have been designated to receive (through the use of funds from other sources) services of the same nature and scope as those that would otherwise be provided under Title I.

(2) A local educational agency is not required to designate an area on the basis of its rank. If such agency can demonstrate, to the satisfaction of the State educational agency, that the incidence and severity of educational deprivation in that area is substantially less than in other attendance areas proposed to be designated. In no event, however, shall the State educational agency approve such a request without first determining (in accordance with the procedures in § 116a.26) that the services provided with State and local funds in any area which has a higher percentage or number of children of low-income families but which is not designated for a project area are comparable to the services provided in other areas not designated.

(d) *Districts with no wide variance in the incidence of poverty.* If there is no wide variance in the concentrations of children from low-income families among the several school attendance areas in a school district, the whole of that school district may at the option of the local educational agency be regarded as a project area. Such a determination may be made only if the variation between the areas with the highest and lowest percentage of such children is not more than one-third of the average percentage of children from low-income families in the district as a whole.

(e) *Cooperative projects.* In the case of a project undertaken jointly by two or more local educational agencies, the project area with respect to each school district must be one that qualifies as a project area under this section. However, the whole of the project area must be considered in determining whether it is sufficiently restricted in size in relation to the nature of the project as to maintain the effectiveness of the project in meeting its aims and objectives.

(f) *Determining number of children from low-income families.* Except for the purposes of the second sentence of paragraph (b)(2) of this section, where data are not available to make an accurate determination of the number of children from low-income families, the number may be estimated on the basis of the number of children in families receiving Aid to Families with Dependent Children (AFDC), the number of children eligible to receive benefits under the National School Lunch Act, or any other reliable and uniform indicator of poverty, or a combination of such factors. However, whatever data are used must be applied uniformly throughout the applicant's school district.

(20 U.S.C. 241e(a)(1)(A))

(g) *School attendance areas qualifying in prior fiscal years.* A school attendance area which (1) does not meet the requirements of this section for a fiscal year but (2) did meet such requirements and received Title I services in either of the two fiscal years immediately preceding such fiscal year shall be deemed to meet such requirements for such fiscal year. A local educational agency shall not be required to apply the provisions of paragraph (c) of this section to a school attendance area described in the preceding sentence. Neither of such two preceding fiscal years shall be earlier than fiscal year 1975.

(20 U.S.C. 241e(a)(13); Senate Rept. No. 93-1026, p. 144 (1974))

(h) *Services to certain public schools in nonqualifying school attendance areas.* The purpose of section 101(a)(5)(A) of Pub. L. 93-380 amending section 141(a)(1)(A) of Title I is to allow local educational agencies to designate for projects, those schools which would otherwise qualify on the basis of their own enrollments but do not qualify because they are not located in an attendance area with large numbers of children from low-income families. Therefore, at the discretion of a local educational agency, notwithstanding any other provision of this section, Title I services may be provided for educationally deprived children enrolled in a school of such agency although the attendance area of that school does not qualify under this section if the percentage or number of children from low-income families in average daily attendance at that school is at least as high as the districtwide average percentage or number required for eligibility on an attendance area basis in accordance with paragraph (b) of this section.

(20 U.S.C. 241e(a)(1)(A); House Rept. No. 93-805, p. 16-17 (1974))

### § 116a.21 Needs assessment.

The application by a local educational agency under this part shall contain sufficient information and documentation to enable the State educational agency to determine that the applicant local educational agency has taken the steps in making a needs assessment described as follows:

(a) *Review of existing data.* The local educational agency has reviewed appropriate existing data, including past evaluations of Title I projects in that local educational agency, and data on the performance in the agency's basic programs of instruction of children residing in all eligible attendance areas. This must be done to determine the incidence and severity of educational deprivation among all children residing in an eligible attendance area. Such children shall include children enrolled in private schools, preschool children, children of school age not enrolled in a school, children in local institutions for neglected or delinquent children, as well as children enrolled in a public school.

(b) *Selection of project areas, target groups, and the needs to be served.* The local educational agency, on the basis of its findings from the review conducted under paragraph (a) has selected: (1) The project areas (in accordance with the procedures of § 116a.20); (2) The age or grade levels at which it will operate the Title I project (or projects); and (3) The types of educational needs to be addressed by these projects.

(c) *Identification of all target group children.* The local educational agency, using appropriate data and specified criteria, has identified all of the educationally deprived children in the project areas, who are in the age or grade levels and have the types of educational needs identified in accordance with paragraph (b).

(d) *Identification of children most in need.* The local educational agency has secured any additional objective data which, in combination with the existing data specified in paragraph (a), will enable it to identify which of the educationally deprived children identified in paragraph (c) are most in need of special assistance.

(e) *Selection criteria.* The local educational agency has set forth specific criteria by which the educationally deprived children residing in the project areas and all children in institutions for neglected or delinquent children counted for payment under this part will be chosen to receive Title I services. Educationally deprived children chosen may include those identified as having the greatest need in accordance with paragraph (d) and those residing in a project area who participated in a project conducted in the previous year (if such children are still educationally deprived). A child may not be excluded from participating in a project because he or she is not from a low-income family or not attending school at the time.

(f) *Diagnostic procedures.* The local educational agency has used adequate diagnostic procedures to determine the special educational needs of the children chosen to be served in a Title I project.

(g) *Consultation.* In making the determinations under this section, the local educational agency has, to the extent feasible, consulted with teachers, parents, and persons knowledgeable of the needs of private and public school children and children in local institutions for neglected or delinquent children.

(20 U.S.C. 241e(a), (1), (2), and (b); House Rept. No. 93-805, p. 20-21)

### § 116a.22 Project description, size, scope, and quality.

(a) *Project description.* Each application for one or more projects under this part shall contain a description of the project in sufficient detail to enable the State educational agency to make the determinations detailed in paragraph (b) of this section. This description shall include:

(1) The educational objectives of the project and the relationship of these objectives to the special educational needs identified by the diagnostic procedures required by paragraph (f) of § 116a.21;

(2) The resources (including the type of staff and materials) to be used in the implementation of the projects and plans for their use;

(3) The time periods and instructional settings for the project services;

(4) The number of the children to be served and a general description of their special educational needs;

(5) The approaches, methods, and techniques that will be used to evaluate the success of the project in attaining its objectives;

(6) A budget detailing the expenditures required for the implementation of the project;

(7) The special educational needs and number of children, if any, who reside outside the project area and who will participate, as well as the manner of their participation; and

(8) Specific provisions for informing and consulting with parents concerning the services to be provided for their children under Title I, the performance of their children and the ways in which such parents can assist their children in realizing the benefits those services are intended to provide.

(b) *Size, scope, and quality.* A State educational agency shall not approve a project for which an application has been made unless it determines that the project is of sufficient size, scope, and quality to give reasonable promise of substantial progress toward meeting the special educational needs of the children to be served. Such a determination shall be made only if the State educational agency finds that:

(1) The educational objectives of the project are adequately related to one or more of the special educational needs of the participating children as identified in accordance with § 116a.21;

(2) The resources to be used in the project and the plans for their use are consistent with and show reasonable promise of meeting the objectives of the project;

(3) The evaluation plans comply with § 116.43 and are adequate for measuring the attainment of the objectives described in subparagraph (a)(1) of this section;

(4) The expenditures for the project (as set forth in the budget) are:

(i) At least $2500 or a lesser amount as may be set by the State educational agency, in accordance with section 141 (a)(1)(B) of Title I, upon its determination that it would be impracticable (for reasons such as distance or difficulty of travel) for the applicant to join effectively with other local educational agencies for the purpose of meeting that dollar requirement;

(ii) Not imprudent, extravagant, excessive, or wasteful; and

(iii) Proposed for use solely to meet the special educational needs of educationally deprived children identified in accordance with § 116a.21;

(5) The project is concentrated on a sufficiently limited number of services for a sufficiently limited number of educationally deprived children, identified in accordance with § 116a.21, to show reasonable promise of meeting the educational objectives identified in subparagraph (a)(1) of this section;

(6) The project has not been designed to meet, nor will it have the effect of meeting, the general needs of schools or of the student body at large in a school or of a specified grade in a school;

(7) Any services or resources provided under Title I will be offered to only those children who have been selected to participate in the project in accordance with § 116a.21, except as approved in accordance with paragraph (b)(9);

(8) If services are provided in the regular classroom or in other settings in which children other than those properly selected to participate in the project will be presented, these services will be directed to the selected children and the effectiveness of the project will not be impaired by the presence of children other than those selected to participate;

(9) If educationally deprived children residing outside the project area will participate: (i) These children will meet

the criteria other than residency for participation in the project; (ii) Their participation will not result in the exclusion of children from the project area who meet these criteria; (iii) The project will have been designed solely for the selected children from the project area; and (iv) Participation of children from outside the project area will not impair the effectiveness of the project and will not result in any extra cost; and

(10) Services are equitably provided to all children with State and local funds without regard to the availability of Title I funds in the applicant's schools for the educationally deprived children.

(20 U.S.C. 241e(a) (1), (b) and 241j)

### § 116a.23 Participation by children enrolled in private schools.

(a) *General requirement.* Each local educational agency shall provide special educational services designed to meet the special educational needs of educationally deprived children residing in its school district who are enrolled in private schools. Such educationally deprived children shall be provided genuine opportunities to participate therein consistent with the number of such educationally deprived children and the nature and extent of their educational deprivation. The special educational services shall be provided through such arrangements as dual enrollment, educational radio and television, and mobile educational services and equipment. Such opportunities shall be made available to those educationally deprived children who reside in the public school attendance area or areas designated as the project area. If it is not practicable to apply a project to children enrolled in private schools because they are enrolled in a private school located in another school district, the applicant may make arrangements for such children with the local educational agency serving such other school district, including where appropriate, the making of a joint project application.

(b) *Determination of needs, number of children, and types of services.* The needs of educationally deprived children enrolled in private schools, the number of such children who will participate in the program, and the types of special educational services to be provided for them shall be determined, after consultation with persons knowledgeable of the needs of these private school children, on a basis comparable to that used in providing for the participation in the program by educationally deprived children enrolled in public schools.

(c) *Nature and comparability of services.* If, after consultation with persons knowledgeable of the needs of private school children, the local educational agency determines that it is necessary, in order to meet the special educational needs of eligible private school children, services and activities may be provided to such children which are different from those provided to public school children. However, consistent with the principles set forth in § 116a.22 of this subpart, those services and activities must be comparable in quality, scope, and opportunity for participation to those provided to public school children with needs of equally high priority.

(d) *Design of projects.* The opportunities for participation by educationally deprived children in private schools in the program of a local educational agency under Title I shall be provided through projects of the local educational agency which furnish special educational services that meet the special educational needs of such educationally deprived children rather than the needs of such schools or the student body at large or of children within a specific grade. Provisions for serving children in private schools shall not include the financing of the existing level of instruction in the private schools. The application shall contain sufficient information to enable the State educational agency to determine that, with respect to children enrolled in private schools, the requirements of § 116a.21 have been satisfied, and such application shall state the number of such children who were found to be educationally deprived according to specific criteria, the number of such children who are expected to participate in each of the services under Title I and the degree and manner of their expected participation.

(e) *Avoidance of separate classes.* Any project involving the participation at the same site of children enrolled in private schools and children enrolled in public schools shall include such provisions as are necessary to avoid classes which are separated by school enrollment or religious affiliation of the children.

(f) *Limitations on availability of services in other than public school facilities.* Public school personnel may be made available on other than public school facilities only to the extent necessary to provide special services (such as therapeutic, remedial, or welfare services, broadened health services, school breakfasts for poor children, and guidance and counseling services) for those educationally deprived children for whose needs such services were designed and only when such services are not normally provided by the private schools. The application for a project including such special services shall provide satisfactory assurance that the applicant will maintain continuing administrative direction and control over those services and, in accordance with § 116.36, over the use of equipment required to provide such services. Provisions for special educational services for educationally deprived children enrolled in private schools shall not include the paying of salaries for teachers or other employees of private schools, except for services performed outside their regular hours of duty and under public supervision and control, nor shall they include the construction of private school facilities.

(g) *Other requirements.* Special educational services and arrangements provided under this section shall meet the requirements of clauses (A) and (B) of section 141(a)(1), section 141(a)(2), and clauses (A) and (B) of section 141(a)(3) of Title I.

(20 U.S.C. 241e(a) (1), (2), and (3) 241e–1(a); *Wheeler* v. *Barrera*, 417 U.S. 402 (1974))

### § 116a.23–1 Waiver of requirements for participation by children enrolled in private schools.

(a) *Approval of applications.* The State educational agency shall not approve an application for a grant for a program that does not meet the requirements of § 116a.23 of this subpart unless and until a final determination to waive such requirements has been made by the Commissioner pursuant to section 141A of Title I and satisfactory arrangements have been made for the provision of such services by the Commissioner under this section. The State educational agency shall notify the Commissioner that an application has been disapproved because of the local educational agency's failure to meet the requirements of § 116a.23 and set forth the reasons and supporting evidence for such disapproval.

(b) *Waivers in cases of legal prohibition.* If a local educational agency is prohibited by law from providing for the participation in special programs for educationally deprived children enrolled in private elementary and secondary schools as required by sections 141(a)(2) and 141A(a) of Title I and § 116a.23 of this subpart, the Commissioner will waive such requirement and the provisions of section 141(a)(2) and will arrange for the provision of services to such children through arrangements which shall be subject to the requirements of section 141A(a) of Title I. For the purpose of determining whether a local educational agency is prohibited by law from providing for participation of educationally deprived children in private schools, the Commissioner may require the State educational agency to furnish an opinion of the Attorney General of the State with regard to the status of State law regarding such participation.

(c) *Waivers in cases of substantial noncompliance.* (1) If the Commissioner determines that a local educational agency has substantially failed to provide for the participation, on an equitable basis, of educationally deprived children enrolled in private elementary and secondary schools (as set forth in an approved application) as required by section 141(a)(2) and 141A(a) of Title I and § 116a.23 of this subpart, he shall make arrangements for the provision of services to such children, which shall be subject to the requirements of section 141A(a) of Title I, upon which determination the provisions of such section and section 141(a)(2) of Title I shall be waived.

(2) Where a local educational agency, pursuant to an application approved under this Part, undertakes to provide for the participation, on an equitable basis, of children enrolled in private elementary and secondary schools (as required by Title I and § 116a.23 of this Part) and such agency thereafter reduces the size, scope, or quality of the services provided such children prior to

(i) a final determination by the Commissioner to waive such requirement and (ii) the implementation of satisfactory arrangements for the provision of such services by the Commissioner under this section, no obligations or expenditures incurred by such agency may be recognized as allowable under Title I for the period during which such reduction of services takes place.

(d) *Cost of arrangements by Commissioner.* When the Commissioner arranges for services pursuant to this section, he shall, after consultation with the appropriate public and private school officials, pay the cost of such services from the appropriate allocation or allocations under Title I. In the case of arrangements under this section, such allocation shall be the allocation of the local educational agency affected, and at the discretion of the Commissioner, the proportionate amount of State administrative funds, except that no State may receive less than $150,000 as provided by § 116.4.

(e) *Notice, opportunity for hearing, judicial review.* (1) The Commissioner shall not take any final action under this section until he has afforded the State educational agency and local educational agency affected by such action at least sixty days notice of his proposed action and an opportunity for a hearing with respect thereto on the record.

(2) If a State or local educational agency is dissatisfied with the Commissioner's final action after a hearing under paragraph (e)(1) of this section, it may, within sixty days after notice of such action, file, with the United States Court of Appeals for the circuit in which such State is located, a petition for review of that action in accordance with the provisions in section 141A(b)(4) of Title I.

(20 U.S.C. 241e–1)

### § 116a.24 Bonus pay for teachers.

(a) *General.* An application for a grant for a project under Title I may include, as a part of the applicant's program, provision for the payment of bonuses to teachers in a limited number of schools serving attendance areas with exceptionally high concentrations of children from low-income families.

(b) *Definition.* For the purposes of this section, the term "teacher" means a person holding a teaching certificate in the State who has a regular instructional assignment and is taken into account in the computation of pupil-teacher ratios in the State.

(c) *Eligibility of teachers; amount of bonuses.* The eligibility of teachers for such bonuses may be made subject to such conditions, including the completion of prescribed courses of special training, as may be set by the local educational agency with the approval of the State educational agency. Such bonuses must be reasonable in amount but must be deemed (by the approving State educational agency) to be sufficient to attract to, or retain at, such schools the teachers best qualified to help meet the special educational needs of the educationally deprived children to be served by the program of the local educational agency.

(d) *Application.* (1) A project application that includes provision for the payment of teacher bonuses must demonstrate that the applicant's regular salary schedule has not attracted or has not retained sufficient numbers of teachers of high caliber in the area in which the teacher bonus provision is to be made applicable. It must also demonstrate how the local educational agency plans to recruit, hire, provide inservice training to, and evaluate all teachers who will receive bonuses, and how such teachers will serve as an integral part of the Title I program.

(2) The continuation of the payment of teacher bonuses by a local educational agency beyond a two-year period shall be conditioned upon a demonstration in project applications for subsequent years that bonus payments in the school district have in fact been effective in attracting and retaining teachers of high caliber and that such teachers have significantly contributed to improving the performance of educationally deprived children. For this purpose, the State educational agency must assume a special responsibility for monitoring and evaluating teacher bonus components of programs in the light of specific measurable goals and must collect and maintain data on the extent of the use and the effectiveness of such teacher bonus components of programs under Title I.

(20 U.S.C. 241e(a)(1))

### § 116a.25 Parent advisory councils.

(a) *General requirements.* Each local educational agency shall demonstrate in each annual application submitted under this subpart that it has established an advisory council (hereinafter "district advisory council") for the entire area to be served under Title I and, except as provided in paragraph (f) of this section, an advisory council for each school of such agency served by the program or project set forth in the application (hereinafter "school advisory council"). Such agency may establish intermediate councils for groups of schools within its school district. The purpose of the advisory councils is to encourage parental involvement at the local level as an important means of increasing the effectiveness of programs under Title I. The application of such agency shall demonstrate that the district advisory council, each intermediate council, and each school advisory council, in accordance with the provisions of this section:

(1)(i) Has, as a majority of its members, (A) parents of children (including parents of private school children) who are currently participating in the program or (B) parents of children who will participate in the projects proposed for the following fiscal year, if satisfactory data is available to identify such children.

(2)(i) In the case of a districtwide or intermediate advisory council, is composed of members selected by the parents in the school attendance areas designated as project areas, and (ii) in the case of a school advisory council, is composed of members selected by the parents in the school attendance area of such council;

(3) Has been given responsibility for advising the local educational agency in the planning, implementation, and evaluation of, such program or project;

(4) Is provided by such agency with access to appropriate information concerning such program or project;

(5) Operates under procedures which are adequate to insure timely and proper performance of its functions, including procedures for convening meetings, and for the recording and maintenance of minutes; and

(6) Has been provided with procedures for coordinating its functions and its recommendations to the local educational agency with those of other councils in the district.

(b) *Participation of parents in selection of councils.* All of the parents of children eligible to attend a public school serving a project area, including parents of children living in such area and enrolled in private schools, shall be eligible to participate in the selection of members of the appropriate district and intermediate councils and the school advisory council of that school.

(c) *Identification of parents eligible for membership.* In consultation with the district advisory council, the local educational agency shall establish appropriate procedures whereby parents of children who are currently participating in a project or who will be participating in the proposed project be identified so that they may be considered for membership on a school, intermediate or district advisory council. In no case may parents be identified, for the purposes of this subsection, unless they have first given their consent to be so identified.

(d) *Procedure for selection.* The local educational agency, after consultation with the district advisory council, shall establish appropriate procedures for the nomination and selection of parents eligible under paragraph (c) and other persons for service on district, intermediate and school advisory councils. Such procedures shall include provision for affording timely and adequate notice to the parents and the general public in the agency's school district (or in the appropriate school attendance area in the case of a school council) of the time, place, and method whereby such selection would be made. The local educational agency shall take appropriate measures, such as the publication of the notice in a language other than English, to insure that adequate notice is provided for parents in an area where the dominant language is other than English. Upon the selection of members of the council, the names of all members of such council shall be made available to the public through appropriate notices and continue to be available upon request. Members of an advisory council shall be residents of the school district, and members of a school council shall reside in the attendance area of that school.

(e) *Membership of districtwide or intermediate councils.* The local educational agency may provide that the membership of its districtwide or intermediate advisory councils will be composed solely of members of the school councils, each member of which is elected by his or her school council.

(f) *Local educational agencies with one school or less than 1,000 students in all project area schools.*

If a local educational agency (1) has less than 1,000 students enrolled in its project area schools, or (2) has only one project area school, it may decide, with the approval of the State educational agency to have its district advisory council also serve as its school councils. In any such case the district council shall consist of at least one advisory council member representative of each project area school.

(g) *Involvement of councils.* Each local educational agency shall include in its application sufficient information to enable the State educational agency to make the following determinations:

(1) That each council member has been furnished copies of Title I of the Act, the Federal regulations, guidelines and criteria issued pursuant thereto, State Title I regulations and guidelines,

(2) That all council members will receive appropriate training materials and orientation which will assist them in carrying out their functions under this section; and

(3) That each council will be provided with the local educational agency's current application, other information and documents (such as prior applications in accordance with the availability of information to the public pursuant to § 116.45 for Title I projects and evaluations thereof) as may be needed for the effective involvement of each such council in the planning, implementation, operation, and evaluation of projects under Title I;

(4) That each council has had an adequate opportunity to consider the information available concerning the special educational needs of the educationally deprived children residing in the project area (or areas), and the various programs available to meet those needs, and to make recommendations concerning those needs which should be addressed through the Title I program and similar programs; and

(5) That all parents of children to be served have had an opportunity to present their views concerning the application to the appropriate school council, and that each council has had an opportunity to submit its comments to the local educational agency which shall consider such comments in determining whether or not the application shall be approved and submitted to the State educational agency.

(h) *Additional rules and procedures.* The State educational agency may establish such additional rules and procedures, not inconsistent with the provisions of this section, as may be reasonably necessary to insure the involvement of parents and the proper organization and functioning of parent advisory councils.

(20 U.S.C. 241e(a)(8), (14), 1231d H. Rept. 93-805, p. 18-19 (1974))

### § 116a.26 Comparability of services.

(a) *State agency action regarding applications.* A State educational agency shall not approve an application of a local educational agency for a grant under section 141(a) of Title I, or make payments of Title I funds under a previously approved application of such agency, unless that local educational agency has demonstrated, in accordance with paragraph (e) of this section, that services provided with State and local funds derived from public sources in Title I project areas are at least comparable to the services being provided with such State and local funds in schools serving attendance areas not designated as Title I project areas. Such approval shall not be given unless the local educational agency also provides the assurances and the additional information required by paragraph (h) of this section with respect to the maintenance of comparability. For the purpose of this section, State and local funds include those funds used in the determination of fiscal effort in accordance with § 116.19.

(b) *Reports by local educational agencies.* The State educational agency shall require each local educational agency (except as provided in paragraph (1) of this section) to submit a report in such form as the Commissioner will prescribe, containing the information required by the State educational agency to make the determinations specified in paragraph (e) of this section. Such report shall include the following data for each public school serving a project area (in whole or in part) unless such school is exempted by paragraph (k) of this section, and on a combined basis, for all other schools of corresponding grade levels (as grouped in accordance with paragraph (i) of this section):

(1) The number of children enrolled. For this purpose, children enrolled in kindergarten may be counted on a full-time equivalency basis. Additionally, if the governing body of a State or a local educational agency has mandated in law or local ordinance that State and local funds shall be expended at different rates for children in certain educational categories, age groupings, or grade levels, then the number of such children enrolled for the purpose of the local educational agency's comparability report may, with the approval of the State educational agency, be derived by multiplying the actual number of children enrolled by the rate specified for each such category, age grouping or grade level.

(2) The full-time equivalent number of certified and noncertified instructional staff members, who are paid with State or local funds regularly assigned to such public school or schools;

(3) The total amount of State and local funds being expended on an annual basis for salaries for such instructional staff members less the amount of such salaries based on length of service (longevity);

(4) The number of enrolled children as reported under subparagraph (1) of this paragraph per instructional staff member as reported under subparagraph (2) of this paragraph;

(5) The amount expended per enrolled child as reported under subparagraph (1) of this paragraph for salaries for instructional staff as reported under subparagraph (3) of this paragraph; and

(6) The number of children and of members of instructional staff and expenditures for such staff, if any, that were excluded from determinations in accordance with paragraph (j).

The term "instructional staff members" as used in this section means staff members who render direct and personal services which are in the nature of teaching or the improvement of the teaching-learning situation. The term includes teachers, principals, consultants, or supervisors of instruction, librarians, and guidance and psychological personnel; it also includes aides or other paraprofessional personnel including clerical personnel employed to assist such instructional staff members in providing such services.

(c) *Date as of which data must be collected.* The data required by paragraph (b) of this section shall be as of a date not later than November 1 of each fiscal year as specified by the State educational agency. To the extent practical such date shall be the date nearest October 1 as of which similar data, such as enrollment data, are required for reports to the State educational agency. The local educational agency with the approval of the State educational agency may, however, submit data based on averages for a definite regular school reporting period which includes the date specified by the State educational agency.

(d) *Date for filing report.* The report required by paragraph (b) of this section shall be filed with the State educational agency no later than December 1 of each fiscal year.

(e) *Determination of comparability.* The services being provided by the local educational agency with State and local funds in a Title I project area shall be deemed to be comparable to the services being provided with such funds in areas not being served under Title I, if the State educational agency determines that, for schools serving corresponding grade levels:

(1) The number of children enrolled per instructional staff member, reported in accordance with paragraph (b)(4) of this section, for each public school serving a Title I project area is not more than 105 percent of the average number of children per instructional staff member in all other public schools in the applicant's district; and

(2) The annual expenditure per child, determined in accordance with paragraph (b)(5) of this section, in each public school serving a Title I project area is not less than 95 percent of such expenditure per child in all other public schools in the applicant's district.

(f) *Action by State agency in cases of non-comparability.* (1) If any school serving a Title I project area is determined not to be comparable under paragraph (e) of this section, as of the date specified in accordance with paragraph (c) of this section, and the local educational agency does not submit a revised comparability report by December 1 of that year showing that comparability in accordance with this paragraph has been achieved, the State educational agency shall as of that December 1 suspend its approval of the project until the date such a report is submitted to that agency, provided the date of such submission is not later than the following March 31. Where such a report is filed by March 31, such suspension shall be lifted as of the date on which comparability has been achieved by such agency as shown in such report. Each revised report shall include all data required by paragraph (b), recorded as of a specific date on which the reallocation of resources has taken effect.

(2) If such a report is not submitted to the State educational agency by March 31, that agency, after notifying the applicant agency and providing it an opportunity for a hearing (in accordance with the provisions of § 116.6(b) of Part 116), shall finally disapprove the project and reallocate all unobligated funds in the applicant's allocation as of December 1 to other complying local educational agencies in the State in accordance with the provisions of § 116a.11 of this part.

(3) If the State educational agency finds that, as of a date after December 1, a local educational agency has failed to maintain comparability in accordance with paragraph (e) of this section and has not taken prompt action to correct that lack of comparability, the State educational agency shall, as of the date of such failure to maintain comparability, suspend its approval of the project until the date as of which such local educational agency (by means of a revised comparability report) demonstrates that comparability has been achieved. If such local educational agency fails to demonstrate compliance by March 31, the State educational agency shall revoke its approval of the project (subject to notice and opportunity for hearing) as of the date the local educational agency was found not to be in compliance and shall reallocate the balance of the unobligated funds to other complying local educational agencies in the State.

(4) No Title I funds may be used to pay for obligations incurred by a local educational agency during a period of suspension under this section.

(g) *Special reports regarding migratory children.* (1) For the purpose of this section, the Commissioner may designate those local educational agencies which enroll substantial numbers of migratory children of migratory agricultural workers and migratory fishermen from which a State educational agency shall secure special reports. Each such report shall be in the form prescribed in paragraph (b) of this section and the data provided shall be as of the date prescribed by the Commissioner.

(2) Such date will be selected on the basis of the best available information indicating when the highest concentration of migratory children of migratory agricultural workers or migratory fishermen in the school district of the local educational agency is most likely to occur. The Commissioner will also designate the date such a special report shall be submitted to the State educational agency and by that agency to him.

(3) The State educational agency shall determine on the basis of such special report whether the local educational agency is providing comparable services in project areas in accordance with paragraph (e) of this section and shall take such action as may be required by paragraph (f) of this section.

(h) *Assurances and data filed by local educational agencies.* On or before July 1 of each year each local educational agency shall file with the State educational agency:

(1) An assurance that the comparability of services previously demonstrated with respect to Title I project areas in accordance with paragraph (e) of this section will be maintained in all such areas, including areas serving migratory children of migratory agricultural workers or migratory fishermen, that will be designated as Title I project areas for the next fiscal year;

(2) Data on schools serving attendance areas, if any, that will be designated for Title I projects for the next fiscal year but were not designated for such projects in the preceding fiscal year. Such data shall show either that such schools would have been comparable during the preceding fiscal year if those areas had been designated for projects or will, as the result of specific action by the local educational agency, be comparable during the next fiscal year; and

(3) A statement of the specific policies and procedures adopted by the local educational agency to assure that textbooks, library resources, and other instructional materials and supplies are provided for each school serving a Title I project area on a basis that is comparable to that for non-project areas.

(i) *Grouping of schools.* (1) For the purposes of this section, a local educational agency shall group its schools by corresponding grade levels not to exceed three such groups (generally designated as elementary, intermediate or junior high school, and high school or secondary) for all the schools in the school district of such agency, except that local educational agencies providing education at seven or fewer grade levels above kindergarten shall be limited to one group, and those agencies providing education only at eight or nine grade levels above kindergarten shall be limited to two groups. In the case of agencies providing education at any level from grades six through twelve but only at those levels, the number of such groups shall be limited to two if the number of such grade levels is five or six and to one group if the number of such grade levels is four or less.

(2) A school serving grades in two or three such groups shall be included in that group with which it has the greatest number of grades in common. Where the number of grades in common are equal between two or more groups, the school shall be included in the lower grade division. For example, a local educational agency might have the following grade span organization: K–6 (elementary), 7–9 (junior high), and 10–12 (senior high). In addition, the local educational agency might have an intermediate school serving grades 5–8. Since this intermediate school has two grades in common with the elementary division (grades 5 and 6) and two grades in common with the junior high division (grades 7 and 8), it would be included in the lower grade division (elementary) for determining comparability.

(3) Local educational agencies having schools serving eight or more grades above kindergarten may consider such schools to be a separate group in addition to the number of groups determined under subparagraph (1).

(4) If, for a particular grade span, one school has an enrollment that is at least two times that of another, the local educational agency may divide such schools in that grade span into two groups; one for the schools with the larger enrollments and one for the schools with the smaller enrollments, except as provided in the following sentence. Local educational agencies having schools with enrollments of 100 or less shall exclude such schools in making a determination of the size of the smallest school.

(20 U.S.C. 241e(a)(3))

(j) *Exclusions from determinations in certain cases.* (1) In cases where handicapped children (as defined in § 121.2 of this chapter) or children with specific learning disabilities (as defined in § 121.2 of this chapter) are enrolled full time in special education classes, and where children of limited English speaking ability are enrolled full time in special programs of bilingual education, all those children, the teachers and other instructional staff members who serve them, and instructional expenditures for such staff may be excluded by the local educational agency (at its option) in determining the comparability of services provided in project areas.

(2) Subject to the provisions of paragraph (j)(3) of this section, a local educational agency may (at its option) exclude from determinations under this section, expenditures of State and local funds for (i) programs of bilingual education for children of limited English-speaking ability or (ii) special programs for handicapped children where such children of limited English-speaking ability or such handicapped children do not participate in such programs on a full time basis and may also exclude the staff employed with such State and local funds. If expenditures for staff and numbers of staff are excluded in accordance with the preceding sentence, then the full time equivalent number of children served under such programs may also be excluded.

(3) In order to make the exclusions as provided for in paragraph (j)(1) and

(j)(2) of this section, a local educational agency must demonstrate, to the satisfaction of the State educational agency, that the services provided with such State and local funds to such children of limited English-speaking ability or handicapped children who reside in Title I project areas are comparable to such services provided to similarly disadvantaged children in nonproject areas.

(4) For the purposes of this section, the term "program of bilingual education" means a program of instruction designed for children of limited English speaking ability.

(5) State and local funds expended for State and local programs similar to programs provided under Title I for educationally deprived children and the number of full time equivalent instructional staff members employed through the use of such funds may, at the option of the local educational agency, be excluded from determinations under this section. For the purpose of this section a State or locally funded program for educationally deprived children shall be considered to be similar to programs under Title I if (i) the participating children are "educationally deprived" children as defined in § 116.2 of Part 116; (ii) the program is based on performance objectives related to educational achievement and provides supplementary services designed to meet the special educational needs of those particular children; (iii) the program is evaluated in a manner consistent with those performance objectives, and (iv) for purposes of determining compliance with clauses (i)–(iii) the local educational agency is separately accountable to the State educational agency for any State or local funds expended for such program.

(20 U.S.C. 241e(a) (1), and (3), 244(17); House Rept. 93–805, p. 18 (1974), Senate Rept. No. 93–1026, p. 147 (1974))

(k) *Schools with 100 or less children.* A school with an enrollment of 100 children or less (as of the date or dates the data required by paragraph (b) of this section are collected) shall not be included for purposes of this section, provided that, if the local educational agency operates schools of such size and corresponding grade levels both for areas to be served and areas not to be served under Title I, such agency files with the State educational agency a statement of the policies it will follow concerning the allocations of staff to such schools and the State educational agency finds that such policies are consistent with the objectives of this section.

(l) *Inapplicability to certain agencies.* The requirements of this section are not applicable to a local educational agency which has shown the State educational agency that it is operating only one school serving children at the grade levels at which services under Title I are to be provided or which has designated the whole of the school district as a project area in accordance with § 116a.20(d).

(m) *Maintenance of records.* (1) Local educational agencies required to report under this section shall maintain, by individual schools

(i) Appropriate resource records, including records of children's enrollment;

(ii) Worksheets showing the total number of full-time instructional staff members, the full-time equivalent number of part-time instructional staff members and the total amount of State and local funds being expended for their salaries (including the prorated portions of salaries for part-time staff) less the total amount of such salaries based solely on longevity;

(iii) Appropriate records documenting the exclusions made pursuant to paragraph (j) of this section; and

(2) Such records and worksheets, demonstrating the maintenance of comparability for the entire school year, shall be filed, indexed, and maintained in such a manner that they may be readily reviewed by appropriate local, State, and Federal authorities and shall be retained in accordance with applicable record retention requirements. All such records and worksheets shall be available to the public in accordance with the provisions of § 116.35.

(n) *State agency submissions.* (1) By January 1 of each year, the State educational agency shall submit to the Commissioner in such form as he will prescribe, a copy of the comparability report for each local educational agency in the State which the Commissioner has determined to be in a national sample of such agencies for that year.

(2) The State educational agency shall also submit to the Commissioner by January 1 of each year, a report identifying each local educational agency that failed to meet the comparability requirement of paragraph (e) of this section on the date specified under paragraph (d) or (g) of this section and indicating for each such agency either (i) that such agency has allocated or reallocated sufficient additional resources to Title I project areas so as to come into compliance with such requirements and has filed a revised comparability report reflecting such compliance or (ii) that the State educational agency is withholding the payment of Title I funds to the noncomplying local educational agency.

(3) A copy of each revised comparability report in such form as the Commissioner will prescribe shall be included with the State educational agency's report to be submitted by January 1.

(4) Not later than April 30, the State educational agency shall report to the Commissioner whether any noncomplying local educational agencies have come into compliance, and if so, the State educational agency shall include revised comparability reports for such local educational agencies reflecting such compliance.

(o) *Local educational agencies which receive substantial Federal funds.* A local educational agency receiving at least 95 percent of its funds for education from Federal sources shall not be required to meet the provisions of this section.

(20 U.S.C. 241e(a)(3))

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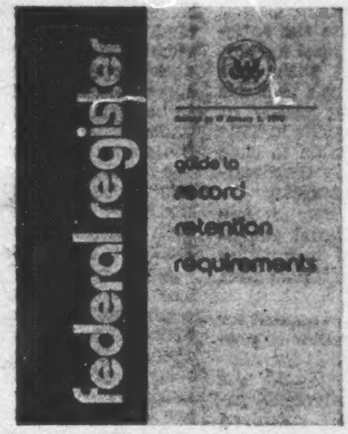

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# APPENDIX D

## REGULATIONS FOR ESEA TITLE I MIGRANT EDUCATION PROGRAMS AND PROJECTS

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AUTHORITY: Sec. 101(a)(2)(E), Pub. L. 93-380, 88 Stat. 492 (20 U.S.C. 241c-2) unless otherwise noted.

## Subpart A -- General

### 116d.1 Applicability

(a) These regulations govern programs and projects for which funds are provided to State educational agencies under section 122 of Title I of the Elementary and Secondary Education Act of 1965 to meet the special educational needs of migratory children of migratory agricultural workers and migratory fishermen.

(b) Except as otherwise provided, assistance under this Part is subject to applicable provisions contained in Part 116 (general requirements relating to Title I of the Act) and Part 100b of this chapter (relating to fiscal, administrative, property management and other matters).
(20 U.S.C. 241c-2)

### 116d.2 Definitions

"Agricultural activity" means:

(a) Any activity related to crop production (including preparing soil and storing, curing, canning or freezing of crops);
(b) Any activity related to the production and processing of milk, poultry, and livestock (for human consumption); and
(c) Any operation involved in forest nurseries and fish farms. The term does not include cutting, transporting, and sawing of timber.
(20 U.S.C. 241c-2)

"Currently migratory child" means a child (1) whose parent or guardian is a migratory agricultural worker or migratory fisherman; and (2) who has within the past twelve months moved from one school district into another (or, in a State comprising a single school district has moved from one school administrative area into another) in order to enable the child, the child's guardian, or a member of the child's immediate family to obtain temporary or seasonal employment in an agricultural or fishing activity.
(20 U.S.C. 241c-2)

"Day care services" means services:

(a) Provided outside the home and during the day for the purpose of custodial care of children and infants; and
(b) Which satisfy applicable State law standards governing the provision of these services.

"Fishing activity" means any activity directly related to the catching and processing of fish and shellfish either for initial distribution through commercial market channels or as a primary means of personal subsistence.
(20 U.S.C. 241c-2)

"Formerly migratory child" means a child defined by section 122 (a) (3) of the Act. That section provides that: "With the concurrence of his parents, a migratory child of a migratory agricultural worker or migratory fisherman shall be deemed to continue to be such a child for a period, not in excess of five years, during which he resides in the area served by the agency carrying on a program or project under this part." The term "area" in the preceding sentence means the legally prescribed geographic area over which a local educational agency or combination of such agencies exercises administrative control or direction. Any child is considered to reside within the "area served" referred to in the statutory language of Section 122 (a)(3) quoted in this definition, if that child:

(a) otherwise satisfies the definition of Section 122(a)(3), and
(b) resides in an "area" as defined in the preceding sentence within which any currently or formerly migratory children are being served by a project, as defined in this section.
(20 U.S.C. 241c-2(a)(3))

"Guardian" means:

(a) A person who has been appointed the legal guardian of a migratory child through formal proceedings in accordance with State law;
(b) A person who the State agency finds would be appointed to be the legal guardian of a migratory child under the law of the child's domiciliary State if formal guardianship proceedings were undertaken; or
(c) A person standing in place of a parent to the child.
(20 U.S.C. 241c-2)

"Migratory agricultural worker" means a person who has, within the past twelve months, moved from one school district to another (or, in a State that comprises a single school district, from one school administrative area to another) in order to enable the person to obtain temporary or seasonal employment in an agricultural activity.
(20 U.S.C. 241c-2)

"Migratory fisherman" means a person who has within the past twelve months, moved from one school district to another (or, in a State that comprises a single school district, from one school administrative area to another) in order to enable the person to obtain temporary or seasonal employment in a fishing activity as defined in this section.
(20 U.S.C. 241c-2; Sen. Rept. No. 93-1026, pp. 142-143 (1974))

"Project" means an activity or set of activities:

(a) Which consist of instructional services, or supporting services provided under 116d.38, or both;
(b) Which is provided under this part to migratory children in a particular area within a State by a State educational agency, either directly or through a local educational agency; and
(c) Which is designed to meet the purposes of the applicable State program as defined in this section.
(20 U.S.C. 241c-2)

"State program" means the overall plan for services, activities, personnel and materials set forth in a State application for grant under this part to meet the special educational needs of migratory children of migratory agricultural workers and migratory fishermen.
(20 U.S.C. 241c-2)

## Subpart B -- Managerial Responsibilities of State Educational Agencies

### 116d.3 State applications

(a) General. A State educational agency which desires to receive assistance under this part shall submit to the Commissioner an application which:

(1) Is in the form prescribed by 100a.43 of this chaper (standard application form for Federal assistance (non-construction programs));

(2) Is signed by the chief executive officer of the State educational agency or the designated representative of that officer;

(3) Contains the assurances and other information required in this part and in part 116; and

(4) Requests approval to use, during the fiscal year covered by the application, any funds under this part which were made available to the State educational agency for the preceding fiscal year but were not obligated by that agency.

(b) Receipt of application. The Commissioner may decline to consider an application under this part if it is received after the date established by the Commissioner for receipt of applications.

(c) Annual program plan. An application submitted under paragraph (a) constitutes (for the purposes of this part) the annual program plan required by section 434(b) of the General Education Provisions Act, and must conform to the requirements of that section.
(20 U.S.C. 241c-2; 1232c(b))

### 116d.5 Designation of operating agencies

The State educational agency in its application under 116d.3 shall identify the agency or agencies it has designated to operate the proposed educational program for migratory children of migratory agricultural workers and migratory fishermen. If all or part of the State program is operated directly by the State educational agency, that agency shall identify in its application the personnel and other resources in that agency (including any resources to be made available to that agency by service contract) that will be made available to conduct the program. If all or part of the State program is operated through a local educational agency or agencies as subgrantee(s), the State educational agency shall identify in its application the local educational agency or agencies.

## 116d.6 Participation of operating agencies

(a) If all or part of the State program is operated through one or more local educational agencies ("operating agencies"), the State educational agency shall require each of these operating agencies to submit to the State educational agency an application (in the form prescribed by 100a.43 of this chapter) which sets forth:

(1) The project to be carried out;

(2) The relationship between the project and the State program;

(3) The objectives to be achieved for each grade group;

(4) The estimated number of children to be served;

(5) The services to be provided to achieve the objectives;

(6) The types and number of staff to be employed; and

(7) An appropriate budget.

(b) The State educational agency shall review an operating agency's application for conformity with the State program set forth in the State application as approved by the Commissioner. Within ten days after the State educational agency has approved an application by an operating agency, the State educational agency shall send the Commissioner a copy of the approved application and any substantive amendments thereto. Within 30 days after receiving a copy of the approved application or any substantive amendments, the Commissioner shall review the application or amendment to determine whether it conforms to the State program as set forth in the State application approved by the Commissioner.

(c) Each operating agency shall maintain records of all financial transactions pertaining to the project for the time period prescribed by 100b.477 of this chapter. Each operating agency shall provide timely financial reports (including the financial status report prescribed by 100b.403 of this chapter, and the performance report prescribed by 100b.432 of this chapter) to the State educational agency.

(c) An operating agency may not obligate funds under this part (within the meaning of 100b.55(c) of this chapter) before:

(1) The effective date of approved application from the State educational agency to the Commissioner, or

(2) The date the operating agency's application is submitted to the State educational agency in substantially approvable form, whichever occurs later.
(20 U.S.C. 241c-2(a)(1), 1232c(b))

## 116d.7 Supervision of programs and projects

Each State educational agency shall describe in its application the procedures and resources which that agency proposes to use to ensure that

the proposed projects are carried out in accordance with the State application as approved by the Commissioner.
(20 U.S.C. 241c-2(a)(1)(A), 1232c(b))

### 116d.8 Amendments to applications

A State educational agency shall submit to the Commissioner an amendment to its application (including an application to use funds made available for the previous fiscal year but not obligated in that year) which is signed by the chief executive officer of that agency or his designee under the following circumstances:

(a) When the agency makes a material change in the administration of its approved State program or in the organization, policies, or operations affecting that program;

(b) If information becomes available which is required by subpart D of this part and which was not previously furnished in the application;

(c) If changes are made in the appropriation or other laws governing the approved State program and the Commissioner indicates to the State educational agency that an amendment to the State application is required by such changes.
(20 U.S.C. 241c-2(a)(1), 1232c(b))

### 116d.9 Title and control of property

(a) Subject to paragraph (b), a State educational agency shall maintain title to, and administrative control over, property acquired with funds under this part.

(b) If, as a matter of State law, a State agency other than the State educational agency is required to exercise functions described in paragraph (a), then the State educational agency shall arrange for the exercise of those functions by that agency and that agency shall be responsible under this part for the exercise of those functions. However, the State educational agency shall retain the right to use the property and to move or otherwise dispose of it in a manner best designed to carry out the purposes of this part.
(20 U.S.C. 241c(a)(3), 241c-2(a)(1)(C), 1232c(b))

### 116d.10 Allocation of funds to administrative and program functions.

(a) Administrative functions. The State educational agency shall use funds provided under section 143(b) of Title I of the Act only to perform administrative functions under this part which are the same as or similar to those carried out by the State educational agency with respect to programs and projects under parts 116a, 116b, and 116c of this chapter. These functions include:

(1) Preparation of the State educational agency's application to the Commissioner;

(2) Design and publication of application, evaluation and financial report forms and transmittal of these forms with appropriate instructions to operating agencies;

(3) Reviewing applictions and reports from those agencies;

(4) Fiscal control and fund accounting;

(5) The design and preparation of State evaluation and financial reports to be submitted to the Commissioner;

(6) Technical assistance for operating agencies in the development of their applications and the monitoring of their projects for compliance with the State application; and

(7) Dissemination of information.

(b) Program functions. The State educational agency shall use funds provided under section 143(a) of Title I of the Act for use under this part only to perform functions which are unique to the program under this part or are the same or similar to services provided by local educational agencies in that State under part 116a of this chapter, and which are not listed under paragraph (a). These functions include:

(1) State-wide recruitment and identification of migrant children;

(2) State and local interagency coordination and interstate activities;

(3) Implementation of the migrant-student record transfer system;

(4) Processing reports submitted by operating agencies under 116d.6;

(5) Inservice training programs for instructional and support personnel;

(6) Maintaining inventories of property acquired with funds provided under this part;

(7) Negotiating and awarding contracts;

(8) The State-wide needs assessment required by 116d.31; and

(9) Evaluations and compilation of notes and preliminary reports for internal State educational agency use with respect to evaluations.
(20 U.S.C. 241g, 1232c(b))

### 116d.11 Funding of subgrantee projects; requirements for adjustment of funds not needed by subgrantee

(a) Each State educational agency receiving a grant under this part shall issue appropriate rules to avoid imprudent, wasteful, extravagant or otherwise improper expenditures of funds by subgrantees which would defeat the intent of the Act to meet the special educational needs of migratory children.

(b) In keeping with the proper and efficient administration of the State program for migratory children, the State educational agency shall include in the rules described in paragraph (a) provision for appropriate adjustment (based on periodic reports on the implementation of the project) of expenditures actually incurred, so as to avoid the allocation or disbursement of funds to the subgrantee in excess of actual need. Following these adjustments the State educational agency may increase the funding of the projects conducted by other subgrantees in the State who demonstrate need for these funds. The subgrantee shall reflect any such adjustment under this paragraph by appropriate amendment to its project application and in its final fiscal report.
(20 U.S.C. 241c-2; 1232c(b))

116d.12 Child eligibility and evidence of child eligibility.

A child may not be counted pursuant to 116d.21, and may not be served by funds made available under this part, unless the State educational agency or a designated operating agency has first obtained documentary evidence sufficient to demonstrate that the child is a currently or formerly migratory child as defined in 116d.2.
(20 U.S.C. 241c-2, 1232c(a), 1232c(b))

## Subpart C - Amounts Available for Grants and Payments

116d.21 Total amount available for grants

(a) Except as provided in sections 124 and 125 of Title I of the Act, as amended, the Commissioner determines the total amount of a grant which may be made available for use in any State for any fiscal year under this part for programs and projects designed to meet the special educational needs of migratory children of migratory agricultural workers and migratory fishermen under section 122(b) of Title I of the Act, as amended and for Puerto Rico, under section 122(b) of Title I and section 843(d) of Pub. L. 93-380 (section 122 of Title I and section 843(d) are set forth in the appendix).

(b) For the purpose of this section, the Commissioner determines the number of migratory children in a State, including currently and formerly migratory children, as defined in this part, on the basis of statistics made available by the migrant student record transfer system or such other system as the Commissioner may determine most accurately and fully reflects the actual number of migrant students.
(20 U.S.C. 241c-2(b)).

116d.22 Entitlement

(a) Entitlement based on estimated cost of program. The State educational agency of a State for which a total amount has been determined under 116d.21 is entitled to receive a grant in the amount determined by the Commissioner to be needed to carry out a State program approved by the Commissioner under 116d.39. Except as provided by paragraph (d), this amount may not exceed the total amount determined under 116d.21.

(b) Informational basis for determining amount of entitlement. The Commissioner determines the amount of the grant which a State educational agency is entitled to receive under this section on the basis of the best information available to him at the time he approves the application, including information on the number of children to be served and the nature and scope of the program. The Commissioner will redetermine this amount at any time during the fiscal year if the best information available demonstrates a basis for this redetermination.

(c) Consideration of costs of past and future activities and amount of available funds. The information on which the Commissioner determines the amount a State educational agency shall receive under this section includes:

(1) The total amount available to the State agency for its grant under 116d.21;

(2) The estimated cost of program activities completed to date under preceding grant awards and the number of children who have been or are being served;

(3) The estimated cost of other activities to be initiated before the end of the current grant period (pursuant to the preceding grant award) and the estimated number of children to be served;

(4) In the case of requests for increases over the amount previously determined by the Commissioner under this section, the estimated cost of providing, if needed, special educational services that could be initiated before the end of the current grant period and the number of children who could be served thereby if additional funds were made available; and

(5) The unused amount from the State educational agency's grant pursuant to the preceding grant award.

(d) Reallocation of excess funds. If the Commissioner determines that the amount available for grants for a State as determined in accordance with 116d.21 exceeds the amount determined to be needed under this section the Commissioner shall, to the extent necessary, allocate this excess to other State educational agencies whose total amount available for grants under 116d.21 would otherwise be insufficient to serve eligible children in that State.
(20 U.S.C. 241c-2(b); Sen. Rep. No. 634, 91st Cong., 2nd Sess. 12-12 (1970))

### 116d.23 Payments.

The Commissioner shall make all payments of funds under this part in accordance with the requirements in Subpart E of Part 100b of this chapter. The amount of the payments to a State educational agency under this part may not exceed the amount of the grant to which that agency is entitled as determined by the Commissioner in accordance with 116d.22 nor the amount obligated in accordance with 100b.55(c) of this chapter during the period covered by the application.
(20 U.S.C. 241c-2, 1232d)

### 116d.24 Special arrangements by the Commissioner to conduct migrant programs

If the Commissioner determines that a State is unable or unwilling to conduct educational programs for migratory children of migratory agricultural workers or of migratory fishermen, or that it would result in more efficient and economic administration or, that it would add substantially to the welfare or educational attainment of such children, the Commissioner may make special arrangements with other public or nonprofit private agencies to carry out the purposes of this section in one or more States and, for this purpose, the Commissioner may use all or part of the total of grants available for any such State under this section.
(20 U.S.C. 241c-21(a)(2))

## Subpart D -- Program Requirements

### 116d.31 Use of Funds and information in State application.

(a) Use of funds. A state educational agency shall use funds provided under section 143(a) of the Act for use under this part only to perform the functions referred to in 116d.10(b), and to carry out a program for instruction, and (subject to 116d.38) for supporting services.

(b) Information in application. The State educational agency shall in its application to the Commissioner describe the proposed State program and shall specify the following:

(1) The areas within the State in which currently migratory children are expected to reside, and formerly migratory children are residing, and the approximate dates of the arrival in, and departures from, those areas of the currently migratory children;

(2) A statement showing the estimated number of currently and formerly migratory children expected to reside or residing in the State and the number of children in each category (currently or formerly migratory) to be served, and the sources and methods used to calculate these estimates;

(3) A summary of the information (including information from other State educational agencies and the migrant student record transfer system) concerning the special educational needs of the migratory children expected to reside in the State in or during the periods covered by the application. The State educational agency shall include in this summary all available information with respect to educational performance and cultural and linguistic background which is relevant to assessing the educational needs of the children.

(4) A statement of the objectives (including performance criteria) of the program, a description of each service to be provided, the estimated number of children by age and anticipated grade placement (including eligible children enrolled or to be enrolled in private schools), a description of any inservice training estimated to be required (including the type of training, frequency and number and type of staff members who will participate in that training), the type and number of staff which it is estimated will be employed, and the facilities and materials to be used. The estimates re-

quired by this paragraph shall be based on all relevant information, including, but not limited to, the prior year's experiences;

(5) A statement of the procedures and instruments by which the effectiveness of the program will be evaluated in accordance with 116.43 of this chapter;

(6) A description of the agency's program for involving parents and appropriate representatives of migratory children in accordance with the requirements of 116d.37;

(7) A description of the types of information (in addition to the migrant student record transfer system) which the State educational agency will communicate to State educational agencies in other States about the migratory children to be served and the agency's plan for insuring as much continuity as possible in the education of these children;

(8) A designation of the State educational agency activities proposed to be charged to administrative funds pursuant to 116d.10(a); and

(9) A description of the State educational agency's plan for meeting the requirements of 116.45 of this chapter pertaining to dissemination of public information.
(20 U.S.C. 241c-(a), 1232c(b))

### 116d.31a Program of instruction for preschool migratory children.

For the purpose of 116d.31(a), a program of instruction designed to meet the preschool educational needs of migratory children of migratory agricultural workers or of migratory fishermen means a program:

(a) Limited to children who are under the age at which public elementary education is provided in accordance with State law;

(b) Comprised primarily of activities designed to increase the children's readiness for instruction in the basic academic skills, and not merely for custodial purposes; and

(c) Conducted by or under the direct supervision of a person qualified under State law to conduct the activities referred to in (b) above.
(20 U.S.C. 241c-(a)(1)(D))

### 116d.32 State budgets.

A State educational agency shall include in its application a budget in a form prescribed by the Commissioner showing:

(1) The estimated costs for each service and the total costs of all services as described in the application;

(2) The estimated amount of unobligated funds which are available from the preceding fiscal year's appropriation; and

(3) The amount applied for from the current fiscal year's appropriation.
(20 U.S.C. 1232c(b))

116d.35 Inclusion of formerly migratory children.

Formerly migratory children may participate in projects which include currently migratory children, or may participate in projects developed solely for the formerly migratory children, under the following conditions:

(a) Their participation will not prevent the participation of currently migratory children nor dilute the effectiveness of programs for those children;

(b) There is on file current valid documentation of each formerly migratory child's eligibility status; and

(c) There is on file the signature of the parent or guardian indicating consent to each formerly migratory child's participation. This signature must be obtained annually and be dated not earlier than 12 months prior to the beginning of the child's participation.
(20 U.S.C. 241c-2(a)(3))

116d.36 Comparable access of migratory children to State and locally funded educational facilities and services.

(a) Assurances by State educational agency. Each State educational agency applying for a grant under this part shall include in its application an assurance that, during the time migratory children reside in the State, the State educational agency will not conduct a program for migratory children under this part through a local educational agency which does not provide for access by migratory children to State and locally funded educational facilities and services comparable to those ordinarily provided to non-migrant children who reside in the attendance area in which the migratory children are served. The preceding sentence does not apply in the case of a project initiated at a time during which State and locally-funded educational facilities and services are not ordinarily available to non-migratory children; however, this exception does not limit or modify the requiremetns contained in 116.40 of this chapter relating to supplanting of State and local funds, and services which by law the applicant is required to provide to migratory children. Nothing in this section limits or modifies the requirement of 116a.26 of this chapter, paragraphs (g) and (h), pertaining to maintenance of comparability in school attendance areas where projects funded under Part 116a of this chapter are being conducted, and which serve migratory children.

(b) Comparable access defined. The requirements of paragraph (a) of this section are satisfied only if migratory children have access to all State and locally funded instructional, health, nutrition and transportation services on the same basis as provided by the local educational agency to non-migratory children residing in the attendance area where migratory children are being served.
(20 U.S.C. 241c-2(a)(1)(C), 241e(a)(3)(C))

116d.37 Parental involvement.

Each State educational agency applying for a grant under this part shall demonstrate in its application that:

(a) The State educational agency has, (to the extent feasible considering the parents' time of residence in the State) consulted with the parents of children to be served or who are being served, and considered the views of these parents with respect to the planning of the State program; and

(b) One or more advisory councils will be established in the State composed of parents of children to be served or who are being served and of other persons knowledgeable of the needs of migratory children, and that such council(s) will be consulted and their views considered concerning the operation and evaluation of the present State program and local projects and the planning of future programs and projects.
(20 U.S.C. 241c-2(a)(1)(C), 241e(a)(8), 1231d))

116d.38 Supporting Services.

(a) General. A State educational agency or its designated operating agency may provide health, welfare and other supporting services under this part, but only to the extent necessary to enable eligible school age and preschool children to participate effectively in instructional services.

(b) Day care services. Day care services for infants and very young children may not be provided under this part except as a support service to eligible preschool and older children, and then only on specific approval by the Commissioner. A State educational agency requesting funds under this part for day care services shall include this request in its application to the Commissioner or in an amendment to that application, and shall accompany its request with sufficient information to enable the Commissioner to determine that the day care described in the request is:

(1) Not available from other public or private agencies;

(2) Essential to enable preschool and school age migratory children to participate in the instructional program under this part; and

(3) Not extravagant in view of the cost, the number of children who would receive day care, the number of eligible children involved, and the effect the availability of such services would have on the attendance and participation of such eligible preschool and school age migratory children in instructional services provided under this part.

(c) Day care services; required information. A State educational agency requesting funds under this part for day care services shall support its request with information as to the estimated cost, a description of the specific services, and the pertinent conditions indicating a need for the services, including the estimated number of children requiring the service, the public and private agencies contacted to provide the services and their written responses, and a detailed account of the effect that the absence of

the services has had on the attendance and participation of children in previous programs and would be expected to have on the attendance and participation of children in the program covered by the application. The State educational agency also shall provide information as to the estimated number of eligible preschool and school age children whose attendance and participation would be improved by the availability of such services and the extent of the improvement.
(20 U.S.C. 241c-2(a)(1)(A), (D))

116d.39 Criteria for the approval of State applications.

The Commissioner shall approve a State application only if he determines that it contains the information required by 116d.31, and complies with all other requirements in this part and applicable requirements of Parts 100b and 116, and if he determines that:

(a) Payments will be used for programs and projects (including the acquisition of equipment and where necessary the construction of school facilities) which are designed to meet the special educational needs of migratory children of migratory agricultural workers or of migratory fishermen, and to coordinate these programs and projects with similar programs and projects in other States, including the transmittal of pertinent information with respect to school records of these children;

(b) Services to be provided show reasonable promise of meeting the special educational needs of migratory children of migratory agricultural workers and migratory fishermen as demonstrated by the needs assessment required by 116d.31(b)(3) particularly with respect to improvements in the educational performance of children in the basic programs of instruction; and that payments under this part will be used for programs and projects which are of sufficient size, scope and quality to give reasonable promise of substantial progress towards meeting such needs;

(c) Provision will be made for programs of instruction to meet the preschool educational needs of migratory children of migratory agricultural workers and migratory fishermen if (considering the amount of funds available) this provision will not detract from the operation of programs and projects for children of school age;

(d) The State program has been planned and will be operated in coordination with programs administered under Part B of Title III of the Economic Opportunity Act of 1964;

(e) In the planning of the State program described in the application, the State educational agency has consulted with other agencies, including the State educational agencies which have provided services for such children and are knowledgeable of their needs; and

(f) The State educational agency's plan for insuring continuity in the

education of migratory children includes appropriate procedures for coordinating programs and projects with similar programs and projects in other States and for the agency's full participation in and full utilization of the migrant student record transfer system established by the Commissioner.
(20 U.S.C. 241c-2)

### 116d.40 Cooperative programs.

Two or more State educational agencies may submit to the Commissioner a joint application for a program or project involving children to be served by all of those particular agencies. By an appropriate interagency agreement, one such agency with the approval of the Commissioner may administer such a program or project.
(20 U.S.C. 1232c(b)(1))

### 116d.41 Commissioner's disapproval of State application; notice and hearing.

The Commissioner may not finally disapprove an application of a State educational agency under this part except after reasonable notice and opportunity for a hearing to that agency.
(20 U.S.C. 241c-2(a)(1))

# APPENDIX

## SECTION 122

## PROGRAMS FOR MIGRATORY CHILDREN

Sec. 122(a)(1) A State educational agency or a combination of such agencies, upon application, shall be entitled to receive a grant for any fiscal year under this section to establish or improve, either directly or through local educational agencies, programs of education for migratory children of migratory agricultural workers or of migratory fishermen. The Commissioner may approve such an application only upon his determination:

(A) That payments will be used for programs and projects (including the acquisition of equipment and where necessary the construction of school facilities) which are designed to meet the special educational needs of migratory children of migratory agricultural workers or of migratory fishermen, and to coordinate these programs and projects with similar programs and projects in other States, including the transmittal of pertinent information with respect to school records of such children;

(B) That in planning and carrying out programs and projects there has been and will be appropriate coordination with programs administered under part B of title III of the Economic Opportunity Act of 1964;

(C) That such programs and projects will be administered and carried out in a manner consistent with the basic objectives of clauses (1)(B) and (3) through (12) of section 141(a); and

(D) That, in planning and carrying out programs and projects, there has been adequate assurance that provision will be made for the preschool educational needs of migratory children of migratory agricultural workers or of migratory fishermen, whenever such agency determines that compliance with this clause will not detract from the operation of programs and projects described in clause (A) of this paragraph after considering funds available for this purpose.

The Commissioner shall not finally disapprove an application of a State educational agency under this paragraph except after reasonable notice and opportunity for a hearing to the State educational agency.

(2) If the Commissioner determines that a State is unable or unwilling to conduct educational programs for migratory children of migratory agricultural workers or of migratory fishermen, or that it would result in more efficient and economic administration, or that it would add substantially to the welfare or educational attainment of such children, he may make special arrangements with other public or nonprofit private agencies to carry out the purposes of this section in one or more States, and for this purpose he may use all or part of the total of grants available for

any such State under this section.

(3) For purposes of this section, with the concurrence of his parents, a migratory child of a migratory agricultural worker or of a migratory fisherman shall be deemed to continue to be such a child for a period, not in excess of five years, during which he resides in the area served by the agency carrying on a program or project under this subsection. Such children who are presently migrant, as determined pursuant to regulations of the Commissioner, shall be given priority in this consideration of programs and activities contained in applications submitted under this subsection.

(b) Except as provided in sections 124 and 125, the total grants which shall be made available for use in any State (other than Puerto Rico) for this section shall be an amount equal to 40 per centum of the average per pupil expenditure in the State (or (1) in the case where the average per pupil expenditure in the State is less than 80 per centum of the average per pupil expenditure in the United States, of 80 per centum of the average per pupil expenditure in the United States, or (2) in the case where the average per pupil expenditure in the State is more than 120 per centum of the average per pupil expenditure in the United States, of 120 per centum of the average per pupil expenditure in the United States) multiplied by (1) the estimated number of such migratory children ages five to seventeen, inclusive, who reside in the State full time, and (2) the full-time equivalent of the estimated number of such migratory children aged five to seventeen, inclusive, who reside in the State part time, as determined by the Commissioner in accordance with regulations, except that if, in the case of any State, such amount exceeds the amount required under subsection (a), the Commissioner shall allocate such excess, to the extent necessary,to other States whose total of grants under this sentence would otherwise be insufficient for all such children to be served in such other States. The total grant which shall be made available for use in Puerto Rico shall be arrived at by multiplying the number of children in Puerto Rico counted as provided in the preceding sentence by 40 per centum of (1) the average per pupil expenditure in Puerto Rico or (2) in the case where such average per pupil expenditure is more than 120 per centum of the average per pupil expenditure in the United States, 120 per centum of the average per pupil expenditure in the United States. In determing the number of migrant children for the purposes of this section the Commissioner shall use statistics made available by the migrant student record transfer system or such other system as he may determine most accurately and fully reflects the actual number of migrant students.

## Section 843(d) of Pub. L. 93-380

Notwithstanding any provision of part A of title I of the elementary and Secondary Education Act of 1965 (section 241c et seq. of this title), the amount which the Commwealth of Puerto Rico is eligible to receive under subpart 1 of such part A (this section) or under sections 121, 122, or 123 (sections 241c-1, 241c-2, or 241c-3 of this title) for the fiscal year ending June 30, 1975, shall not exceed 50 per centum of the full amount the Commonwealth of Puerto Rico would receive (after required ratable reductions) under such subpart (this section) or section (section 241c-1, 241c-2, or 241c-3 of this title) but for this subsection, and for the fiscal years ending June 30, 1976, September 30, 1977, and September 30, 1978, such amount shall not exceed 75 per centum of the full amount the Commonwealth of Puerto Rico would receive (after required ratable reductions) under such subpart or section but for this subsection.